Alberta's Livestock Marketing and Brand Inspection Laws:

Proposed Changes to Legislation

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and

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December 15, 2004

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EXECUTIVE SUMMARY

Alberta Agriculture, Food and Rural Development (AAFRD) and Livestock Identification Services Ltd. (LIS) have developed draft model livestock legislation for Alberta's cattle and horse industries. The views of the industry are now being sought on the draft model legislation.

The existing legislation consolidated and revised in the draft model legislation includes:

- *Brand Act*
- *Livestock Identification and Brand Inspection Act*
- *Livestock and Livestock Products Act*
- *Stray Animals Act*
- *Livery Stable Keepers Act*

Based on the feedback received through the industry consultations, the draft model legislation reflects the following public policy goals:

- **Facilitating fair commerce** – provide a set of industry-wide standards, rules and forms that allow livestock transactions to flow more efficiently;

- **Protection of personal property** – deter theft of livestock through a brand registry and requiring use of manifests and livestock inspection;

- **Promote the integrity of marketing within the industry** – benefit producers and dealers by increasing the confidence in livestock transactions through dealer licensing and bonding;

- **Predictability** – provide rules that are customized to the industry that allow everyone to structure their business affairs and plan for the future with greater certainty;

- **Harmonization** – ensure provincial laws accommodate inter-provincial and international trade without undue impediment; and

- **Free market** – promote the fundamentally free livestock market while balancing other public policy goals.

This discussion paper includes a summary of the consultation that has occurred to date, and a description of the key features of the draft model legislation. The draft model legislation is attached as an appendix.

Legislative and Industry Context

For over a century, owners of Alberta cattle and horses have relied on the use of registered brands and brand inspections to facilitate fair commerce within the industry. The rules on brands, brand inspection and other aspects of marketing and movement of livestock in Alberta are created by provincial legislation. Prior to 1998, the provincial government provided brand inspection and related regulatory services to the livestock industry. At that time, after consultation with the livestock industry, the government and industry agreed these functions could be delegated to an industry-run not-for-profit company. As a result, Livestock Identification Services Ltd. (LIS) was created in 1998 by the industry to facilitate commerce through brand inspections and to deliver related services.

Overseeing the transactions and movement of Alberta's cattle and horse industries is a large task. Prior to the Bovine Spongiform Encephalopathy (BSE) incident, over 6.4 million head (6,434,967) of livestock worth an estimated $6.2 billion were bought and sold in 2003 in Alberta. The industry is spread across the province with over 35,000 producers, and licences issued for 48 auction markets, 354 livestock dealers, 608 livestock dealers agents, 87 stockyards and 37 assembly stations.

The industry's evolving dynamics present other challenges too. At one time, this was an industry dominated by individual ranches that sometimes raised livestock from birth to slaughter. The primary concern for producers was preventing lost or stolen livestock through the use of brands and brand inspections.

Today, due to economic demands and differing operating philosophies there are different types of operations ranging from small farms to large feedlots, each having a different and more specialized role in livestock production. Livestock are now moved much more frequently

including from the cow/calf producer to backgrounding feedlot, to finishing feedlot and then on to the packing plant often with trips to the auction market occurring between these points of transfer. In addition, under normal trading conditions with open borders, livestock are imported to Alberta from other provinces or the northern United States in order to meet market demands and Alberta's large feeding capacity.

Furthermore, the cattle industry - unlike other industries such as swine or poultry - is a transactional industry. That is, swine and poultry tend to be raised by one producer and sold once to a processor. Cattle and horses, however, are generally raised by several owners involving numerous sales, agents and dealers.

These sales come in a wide variety of forms. Sometimes it is a farmer selling by private treaty to his neighbour. In other cases, it is a farmer taking his livestock to a public sale at an auction market where dealers and order buyers purchase the livestock for other buyers. Sometimes it is a dealer going to the farm and buying the livestock at the farm gate. And with the evolution of technology, sales are occurring by satellite, through electronic tape and on the Internet. Finally, with the consolidation of livestock feeding in southern Alberta has come the need to source feeder cattle from other jurisdictions in Canada and the United States. This creates additional complexities where sales take place over multiple legal jurisdictions.

New Legislative Directions

Highlights of the new legislative directions are as follows:

System Goal	• Emphasizes that the primary goal of the legislation is to deter theft and to promote fair and efficient commerce in livestock
Branding and Title Transfer	• Clarifies the legal effect of branding and livestock inspection - branding and livestock inspection do not guarantee that a seller passes clear title to a buyer - it is a process of identifying livestock
Removing Uncertainty about the Types of Livestock to be Inspected	• Confirms that the livestock inspection system is restricted to cattle and horses only
Buyer's Protection	• Expands the Livestock Patrons' Assurance Fund to protect buyers of livestock against claims by lenders and previous owners in cases of breaches of financial security or theft
Acceptance of Other Livestock Identifiers	• Increases the types of identifiers that livestock inspectors can use to identify livestock to include identification devices used under other industry programs such as CCIA tags
Standardized Documentation	• Establishes standardized documents commonly used in livestock transactions
Clarification of Inspection Points	• Clarifies where mandatory livestock inspection is required
Dealer Licensing	• Clarifies the requirements for dealer licensing, bonding, and suspension of dealer licences
Increased Fines	• Increases the fines for violations to align with other similar legislation

1. Summary of Consultation Process

In November 2001, Alberta Agriculture, Food and Rural Development (AAFRD) and Livestock Identification Services Ltd. (LIS) agreed to collaborate on a review of the four Acts and 14 Regulations delegated to LIS for administration on behalf of the Alberta government. Early in 2002, a review process was designed and a Legislative Review Working Group and a Legislative Review Steering Committee were both formed and include representatives from AAFRD and LIS. The Steering Committee functions to oversee the legislative review, industry consultation and direct the Working Group. An initial discussion paper was developed with involvement of both committees. A separate discussion paper was developed by the Livestock Patrons' Claims Review Tribunal, which administers the regulations that govern the Livestock Patrons' Assurance Fund, and the claims review process.

In January 2003, the discussion paper and questionnaire were distributed to approximately 225 industry organizations, industry leaders and other stakeholders. In February 2003, a letter explaining the consultation process and availability of the discussion paper was sent to each brand holder in Alberta. Industry groups and producers were asked to provide their input by April 30, 2003. A significant number of responses were received:

- Livestock Identification and Brand Inspection Questionnaire – 24 respondents (associations) and 610 interested individuals
- Livestock Patrons' Assurance Fund Questionnaire – 20 respondents (associations) and 446 interested individuals

The consultation process was put on hold in the summer of 2003 as the government and industry were responding to the BSE crisis. In late 2003, representatives of LIS and AAFRD used the feedback as the basis of providing direction to the Working Group on the draft model legislation.

Industry input is now being sought on the draft model legislation. The feedback received will be taken into consideration. Further improvements will be made to the draft legislation before it is presented to the Alberta Legislature in the spring of 2005.

2. Proposed Changes to Alberta's Livestock Marketing and Brand Inspection Laws

The draft model legislation consolidates and modifies the following Acts and Regulations:

- ***Brand Act***
  Brand Regulation
  LIS Delegated Authority Regulation

- ***Livestock Identification and Brand Inspection Act***
  Livestock Identification and Brand Inspection Regulation
  Livestock Identification and Brand Inspection Fees Regulation
  LIS Delegated Authority Regulation

- ***Livestock and Livestock Products Act***
  Application and License Form Regulation
  Livestock Dealers and Livestock Dealers' Agents Regulation
  Fees Regulation
  Stock Yard Regulation
  LIS Delegated Authority Regulation
  Livestock Transportation Regulation
  Section 8, Livestock Designation Regulation

- ***Stray Animals Act***
  Stray Animals Regulation
  LIS Delegated Authority Regulation

- ***Livery Stable Keepers Act***

The questions and answers that follow provide a summary of the key features of the draft model legislation. The term "livestock" will be used in the questions and answers to refer to both cattle and horses. Terms used in this document and the draft model legislation are defined in the glossary attached as Appendix 1.

Brands

What constitutes a brand and who can use it?

A brand will continue to be a character or combination of characters used to identify the person or organization having an ownership interest in livestock. Producers will also continue to be allowed to use modern forms of identification, such as electronic identification, that are approved by LIS.

The application of a brand to an animal will continue to be voluntary. Only those who want to brand, have to brand. Furthermore, the regulations only apply to branding of livestock. Branding of other types of animals will not be regulated in this legislation.

All brands will continue to be registered with LIS and it will continue to be an offence to apply an unregistered brand.

Only the owner of the brand or someone authorized by the brand holder will be allowed to apply the brand to livestock.

What kinds of livestock can I apply a brand to?

The brand system will only recognize brands applied to livestock. Livestock is defined as cattle and horses and any other livestock specified in the regulations. Bison will be removed from the brand inspection requirements.

Who can register a brand?

Alberta residents, business and anyone conducting business in livestock in Alberta will be allowed to register a brand.

What name should I register the brand in?

Persons applying to register a brand will be required to identify the name they intend to use when selling livestock. They should use the legal name of their company or partnership. Unincorporated producers should use their proper legal name. This is the name they will put on the "Pay To" or "On Account of" line on the manifest.

Since the name you use when you apply to register your brand is the name that will appear in the brand registry, it will be the name the livestock inspector looks at when doing a brand inspection. It is also the name that a licensed livestock dealer (including auction markets) will use to prepare the cheque for the livestock you sell.

These provisions will apply to individual producers, corporations and partnerships.

Brand holders will be required to keep LIS informed of any name changes. An inspector can place a hold on the sale proceeds where the person who presented the livestock for sale is not listed as the registered brand holder.

Can I register a brand in more than one name?

If more than one name is listed in the brand application, then the "Pay To" line in the manifest must contain all the names. If a name is missing on the "Pay To" line, then that person needs to sign the manifest to show that they consent to the cheque not including his or her name.

Can I change the name that my brand is registered in?

A brand holder can request that LIS change the name or names listed in the brand registry.

Will I be able to have someone else (like a dealer) sell my livestock for me?

A dealer can present a brand holder's livestock for sale as long as the manifest indicates the brand holder's name on either the "Pay To" or "On Account of" line on the manifest.

A licensed livestock dealer who purchases the livestock is required to issue the cheque for the sale proceeds in either the name of the brand holder or jointly in the name of the selling dealer and "On Account of" the brand holder.

What effect does the brand have in cases of stolen livestock?

In a prosecution for an offence under the provincial statutes, the fact that the livestock is bearing a brand is proof, in the absence of evidence to the contrary, that the brand holder has an ownership interest in the livestock.

What does putting a brand on an animal do?

The brand will continue to be a means by which an owner can visually identify animals that belong to the owner. However, the brand itself will not be a determination of ownership. For example, if livestock are bearing the brand of someone other than the person presenting the livestock for sale, as long as the person selling the livestock can produce a bill of sale from the brand holder or from a previous sale, then the seller will be assumed to have the right to sell the livestock. The application of a brand will not necessarily override previous security interests or liens against the livestock.

How long will the brand be registered for?

Brands will continue to be lifetime brands. Upon death, the legal representatives of the brand holder can transfer the brand to the beneficiaries of the estate by notifying LIS.

The estate will also be given the option of surrendering the brand so that others may apply to register and use the brand after a period of time.

Inspections

Where will brand inspections be required?

Generally, livestock arriving at auction markets, country sales, feedlots, assembling stations and abattoirs will be required to be inspected. However, there will be exceptions, which are listed below.

What are the exceptions for brand inspections at feedlots?

Livestock arriving at a feedlot do not need to be inspected if:

(1) the livestock are:

a. transported directly from a market or country sale where the livestock were inspected; and

b. accompanied by an Entry Permit (A Form) issued by an inspector at the market or country sale that describes the livestock and brands or identifiers;

(2) the livestock originate from a jurisdiction that has a reciprocal inspection agreement with Alberta and the livestock are accompanied with inspection documentation from this jurisdiction;

(3) the livestock are coming from another feedlot where the livestock were inspected out of the originating feedlot and shipped under an Advance Inspection (Exit) Permit (A Form); or

(4) the livestock are coming from another feedlot where the livestock were inspected into the originating feedlot and arrived under an Entry Permit (A Form), and the identity of the livestock has been maintained up to and including the time of shipment to the feedlot of designation.

LIS will have discretion as to whether to inspect livestock that originate from an un-inspected jurisdiction that does not have a reciprocal agreement with LIS such as Manitoba and in (4) above. When LIS performs an inspection at a feedlot relating to un-inspected jurisdictions or in (4) above, only a sample of the livestock will be inspected. If the sample is in order, no further inspection will occur on the remaining livestock in the shipment.

See the "Shipping and Other Documentation" section on page 14 for details on the types and usage of documents.

What are the exceptions for brand inspections at packing plants?

Livestock arriving at a packing plant do not need to be inspected if:

(1) the livestock are:

a. transported directly from a market or country sale where the livestock were inspected; and

b. accompanied by an Entry Permit (A Form) issued by an inspector at the market or country sale that describes the livestock and brands or identifiers;

(2) the livestock originate from a jurisdiction that has a reciprocal inspection agreement with Alberta; or

(3) the livestock are coming from a feedlot where the livestock were inspected out of the feedlot and shipped directly to the packing plant under an Advance Inspection (Exit) Permit (A Form).

LIS will have discretion as to whether to inspect livestock that originate from an un-inspected jurisdiction that does not have a reciprocal agreement with LIS such as Manitoba.

What will operators of country sales be required to do for the brand inspection?

Livestock arriving at a country sale may need to be inspected. The operator of a country sale can:

- provide LIS with seven days notice of the sale and request a country sale without inspection; and

- provide a report prior to the sale listing the number of and type of livestock to be sold, the brands, identifiers, or pedigree tattoos on all livestock to be sold.

What will feedlots be required to do for the brand inspection?

Feedlots will be required to notify LIS within 24 hours of livestock arriving in the feedlot from jurisdictions where no reciprocal agreement exists, or when livestock have not been previously inspected as defined above.

Unless otherwise authorized by LIS, the feedlot will be required to keep the livestock separate until the inspection is completed or until LIS advises the feedlot that no inspection will be carried out.

What are the exceptions for brand inspections at mobile butchers?

Cattle being processed by a mobile butcher do not have to be inspected if the mobile butcher sends a monthly report to LIS detailing the livestock, brands, and owner's name of the cattle processed.

When will inspections be required for exporting of livestock?

All livestock, including pedigree livestock, leaving the province must be inspected except where the livestock are being shipped directly from a market or country sale where they were inspected as part of the sale or where a reciprocal agreement exists between provinces.

Where can LIS perform inspections?

LIS will be authorized to perform inspections at any location where livestock may be present including farms, pastures, feedlots, while being transported, and at sale points. Inspectors have the authority to enter any location (except a dwelling) at any time to do an inspection or to collect records.

Where is brand inspection <u>not</u> required?

A change in ownership of livestock alone will not trigger the requirement for a brand inspection. For example, the transfer of ownership in share pen cattle will not require a brand inspection if the cattle are not being moved to another feedlot. Similarly, a subsequent transfer of ownership occurring while livestock are still at an auction market or when the livestock are in transit will not require brand inspection. A key determining factor as to whether brand inspection is required is the movement of livestock to and from designated inspection points.

What happens during an inspection?

The livestock inspector will examine the brands on the livestock and compare the information in the brand registry with the information on the paperwork associated with the livestock. When performing an inspection, livestock inspectors will inspect the livestock in a manner and at a level satisfactory to the inspector. Where there is a discrepancy between the brands and the accompanying paperwork (e.g., the person presenting the livestock for sale is not listed as the registered brand holder, the brands listed do not match the brands on the animal, or the "Pay to" or "On Account of" lines on the manifest do not include the brand holder's name) the livestock inspector will either detain the livestock or require that a hold be placed on the sale proceeds. If the paperwork is in order, no hold will be placed.

What happens to the sale proceeds when they are held and how is a hold released?

LIS will hold the sale proceeds in trust.

The sale proceeds will be paid out when LIS is satisfied that the seller was the brand holder or had authorized possession of the livestock.

If there are competing claims for the sale proceeds that involve the courts, LIS will pay the money into the court or to the person as the court orders.

LIS will also be able to release hold funds where all of the claimants agree on where the money should be paid.

If money remains under a hold for more than two years, the money will be paid equally to the Patrons' Assurance Fund and the Buyers' Assurance Fund.

Shipping and Other Documentation

What documentation will be required when shipping livestock?

There will be six types of shipping and other documents used in Alberta:

(1) Manifest

A Manifest will continue to be required when shipping livestock within Alberta unless another form is being used.

There will be four uses for the "A Form." Four check boxes will be added to the top of the A Form so that you can indicate the type of use you are making of the A Form.

(2) Entry Permits (A Form)

An Entry Permit (A Form) will be used where the livestock are leaving a market or country sale where they have been inspected as long as the person applies to the inspector within 24 hours of transporting the livestock and the inspector is satisfied that the bill of sale adequately describes the livestock, brands and the destination feedlot or abattoir. An Entry Permit (A Form) will be valid for four days.

(3) Advance Inspection (Exit) Permits (A Form)

An Advance Inspection (Exit) Permit (A Form) will be used where a feedlot has the livestock inspected at the feedlot immediately prior to being shipped to a packing plant.

(4) Export Permits (A Form)

An Export Permit (A Form) will be used when shipping livestock out of Alberta.

(5) Requested Inspection Document (A Form)

A Requested Inspection Document (A Form) will be used in certain situations where an individual may request LIS to provide inspection services for specific livestock where the livestock have no present requirement for movement.

(6) Horse Permits

Persons frequently transporting horses can obtain a yearly or lifetime Horse Permit.

It will continue to be an offence to fail to use the required forms.

Will a shipper be able to change the destination of livestock shipped under an Entry Permit (A Form)?

If the destination and/or owner of the livestock changes while en route, the Entry Permit (A Form) can be changed to reflect the new destination and/or owner as long as a copy of the amended Entry Permit (A Form) is provided to the inspector who issued the original Entry Permit (A Form).

Will standardized bills of sale be required?

All bills of sale will be required to include at least the following information:

- date of the transaction;
- the proper legal name of the buyer and seller;
- the number, colour, and kind of livestock;
- the value or sale price; and
- a description of the livestock including the brand or other identifiers.

Standardized bills of sale will be available, but use of the form will be voluntary.

Dealer Licensing

Who is required to obtain a dealer's licence?

Anyone who buys or sells livestock and owns them for less than 30 days requires a licence. Also, anyone who acts as an agent in the buying or selling of livestock and makes direct payment to the seller requires a licence. Finally, anyone who assists in the buying or selling of livestock by compiling or providing information on livestock that are for sale and who handles the sale proceeds requires a licence.

What are the exceptions to the licensing requirements?

A producer who owns livestock for more 30 days is not required to obtain a dealer's licence. Some public groups such as exhibition and agricultural societies, and 4H clubs do not require a licence to sell livestock.

Who is required to obtain a dealer's agent's licence?

Anyone who buys and sells livestock on behalf of and in the name of a dealer or who negotiates for livestock to be delivered to a licensed dealer needs an agent's licence.

Also, for corporations that are licensed dealers, any person who acts for the corporation in the buying and selling of livestock needs an agent's licence.

What restrictions are there on who can get a licence?

A person applying for a licence has to be of good character and reputation. The person cannot have been convicted of an offence under this legislation or be a person associated with a person who has been convicted under this legislation.

A person who has not repaid the Patrons' Assurance Fund for claims caused by the person or who has outstanding brand inspection fees cannot obtain or renew a licence.

What happens if a dealer supports someone who is dealing without a required licence?

All dealers will be notified when a licence is suspended or cancelled. If, after being notified, a dealer is found to be supporting a suspended dealer engaged in unlawful buying and selling of livestock, the dealer risks having his or her licence suspended or cancelled.

Can a dealer appeal a licensing decision?

An appeal board will hear appeals from dealers who want a decision refusing their licence reviewed. If the appeal board refuses to grant the licence, the appeal board can restrict the dealer from reapplying for up to five years.

Decisions of the appeal board can be appealed to the Alberta Court of Queen's Bench.

Livestock Marketing

When must a buyer pay for livestock?

Prompt Payment: A seller must be paid prior to the close of the next business day following the purchase or sale. If the livestock are being sold rail grade, then the payment must occur prior to the close of the next business day following the grading.

This provision for timely payment will apply to all transactions except those involving feeder association livestock.

A buyer who pays late will be breaching the legislation and will lose the right to be paid under the dealer's bond and the Patrons' Assurance Fund.

The 'next business day payment rule' will be extended to five days in the case of transactions involving feeder association cattle to allow for due diligence procedures to be completed.

A dealer has to purchase and make payment under the name which the dealer is licensed.

Will dealers have to disclose potential conflict of interest when receiving commissions from both the buyer and seller?

A dealer acting for both the seller and the buyer is obligated to disclose this to both parties when the dealer is receiving commissions from both parties.

A dealer's agent has to disclose whom he or she is an agent for.

What about misleading statements?

A dealer and dealer's agent are prohibited from making misleading statements about the livestock or their services.

Will title to livestock still transfer if the dealer does not pay me for the livestock?

Title in the livestock remains with the seller until the seller is paid and the buyer cannot use the livestock as security until the seller is paid.

Will livestock dealers be required to maintain trust accounts?

The money the dealer receives for the livestock must be held in a trust account when the dealer is selling on behalf of another individual. Dealers will be required to keep sale proceeds separate from other monies and follow trust accounting procedures.

Will dealers be required to post a bond or other security?

Dealers will be required to post a bond, irrevocable letter of guarantee or other security acceptable to LIS. If the dealer fails to pay the seller for the livestock, the unpaid seller can claim against the dealer's security.

Shortfalls in the security can result in a claim to the Patrons' Assurance Fund.

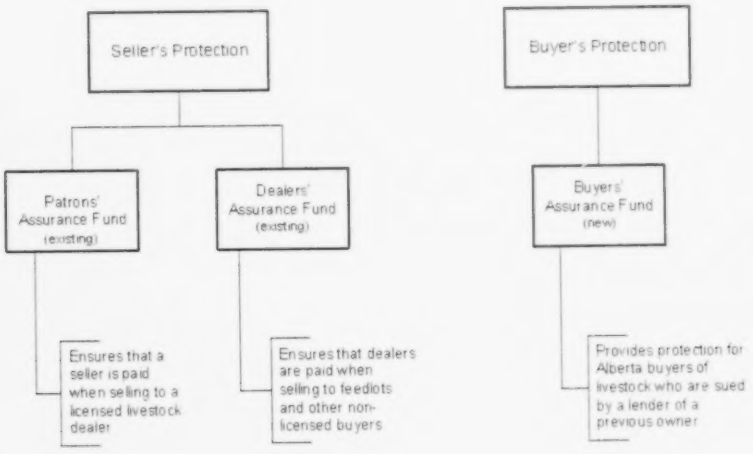
No security is required from a person who does not handle sale proceeds and only assists in the buying or selling of livestock by compiling or providing information on livestock that are for sale and who charges a fee for this service.

Will the level of fines increase?

Fines will increase for violations of the legislation. Previously, fines were assessed up to $5,000. The draft model legislation provides for the assessment of fines up to $10,000. The fines proposed in the legislation align with other similar legislation.

Assurance of Payment and Protections for Buyers

Currently, sellers of cattle and horses are protected by a seller's assurance system that has two funds: a Patrons' Assurance Fund and a Dealers' Assurance Fund. It is proposed that a third fund be established to protect buyers of cattle and horses against claims by previous owners or their lenders that could interfere with the passage of clear title to the buyer. Each of these funds is explained in detail below. The following chart illustrates the funds and the protection they provide.


Seller's Protection
Patrons' Assurance Fund (existing)
Dealers' Assurance Fund (existing)
Ensures that a seller is paid when selling to a licensed livestock dealer
Ensures that dealers are paid when selling to feedlots and other non-licensed buyers
Buyer's Protection
Buyers' Assurance Fund (new)
Provides protection for Alberta buyers of livestock who are sued by a lender of a previous owner

Patrons' Assurance Fund

What is the Patrons' Assurance Fund?

The Patrons' Assurance Fund protects sellers from non-payment by licensed dealers (including auction markets and packing plants). This Fund allows sellers to recover 80% of the value of the sale price.

Who is eligible?

Any Albertan or Alberta registered corporation that sells cattle and horses to an Alberta licensed livestock dealer is eligible.

What cattle and horses are eligible?

The cattle and horses must be in Alberta at the time of the sale and they must have been in Alberta for 30 days prior to the sale. Cattle and horses sold by an auction market to a dealer will be eligible even if they were not in Alberta for 30 days prior to the sale. Alberta cattle and horses sold through the auction markets in Dawson Creek, B.C. and Lloydminster, Saskatchewan will also be eligible. Cattle and horses that are moved to another province for grazing and then brought back to Alberta for sale will be eligible.

What are the eligibility rules?

In order to be eligible, the seller must:

- deposit the cheque received from the dealer within a reasonable time;
- notify LIS as soon as the seller knew or ought to have known of the payment default; and
- have paid Fund levies on all transactions.

A seller will not be eligible if:

- the seller extends credit to the dealer;
- there is collusion between the seller and the dealer; or
- the seller and the dealer are not dealing at arm's length.

There will no longer be a requirement that the livestock be brand inspected in order to be eligible for the Fund.

Will transactions involving the use of an agent or a feeder association be eligible?

Consignment sales through auction markets and sales of cattle by feeder association members will be eligible.

Will transactions conducted through tape sales, satellite and Internet auctions be eligible?

Sales through electronic sales formats will be treated the same as traditional sales for eligibility purposes.

How will levies be collected?

Sellers are required to pay a levy each time they sell livestock. Typically, auction markets will remit the levy on behalf of the seller and deduct the levy from the payment for the livestock. Licensed dealers will remit levies at the beginning of each year based on the estimated volumes of transactions from the Statutory Declaration form that dealers currently file with LIS as part of their licence application. Dealers exceeding their estimate will be required to notify the Fund and pay additional levies.

Will participation in the Fund be mandatory?

The program is voluntary. However, in order to be eligible, you must have paid levies on all transactions. If you do not want to participate in the Fund, you need to send a notice to LIS. You will be required to continue to pay levies, but you can apply for a refund of the levies at the end of each year.

How will claims be processed?

Claims will continued to be reviewed by the Livestock Patron's Claims Review Tribunal. The Tribunal is comprised of representatives from Alberta cattle associations.

Dealers' Assurance Fund

What is the Dealers' Assurance Fund?

The Dealers' Assurance Fund protects dealers from non-payment by non-licensed buyers such as feedlots. This Fund allows sellers to recover 80% of the value of the sale price.

Who is eligible?

Any Alberta licensed livestock dealer that sells cattle and horses to an Alberta non-licensed buyer is eligible.

What cattle and horses are eligible?

The cattle and horses must be in Alberta at the time of the sale and they must have been in Alberta for 30 days prior to the sale. Cattle and horses sold by an auction market to a non-licensed buyer will be eligible even if they were not in Alberta for 30 days prior to the sale.

What are the eligibility rules?

In order to be eligible, the dealer must:

- deposit the cheque received from the buyer within a reasonable time;
- notify LIS as soon as the seller knew or ought to have known of the payment default; and
- have paid Fund levies on all transactions.

A dealer will not be eligible if:

- the dealer extends credit to the non-licensed buyer;
- there is collusion between the dealer and the buyer; or
- the dealer and the buyer are not dealing at arm's length.

Will transactions conducted through tape sales, satellite and Internet auctions be eligible?

Sales through electronic sales formats will be treated the same as traditional sales for eligibility purposes.

How will levies be collected?

Licensed dealers will remit levies at the beginning of each year based on the estimated volumes of transactions from the Statutory Declaration form that dealers currently file with LIS as part of their licence application. Dealers exceeding their estimate will be required to notify the Fund and pay additional levies.

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The program is voluntary. However, in order to be eligible, you must have paid levies on all transactions. If you do not want to participate in the Fund, you need to send a notice to LIS. You will be required to continue to pay levies, but you can apply for a refund of the levies at the end of each year.

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Claims will continued to be reviewed by the Livestock Patron's Claims Review Tribunal. The Tribunal is comprised of representatives from Alberta cattle associations.

Buyers' Assurance Fund

What is Buyers' Assurance?

The Buyers' Assurance Fund will protect Alberta buyers of livestock from claims by eligible previous owners or security interest holders.

The Buyers' Assurance Fund will provide protection for Alberta buyers of livestock who are sued by a lender who has unpaid security relating to livestock sold by an Alberta seller.

Livestock Identification Services and the Livestock Patrons' Claims Review Tribunal will administer the Buyers' Assurance Fund jointly.

What claims are eligible for payment from the Buyers' Assurance Fund?

In order to be eligible, the Alberta buyer will have paid for the livestock and taken possession of them.

Who is eligible?

Any Albertan, Alberta licensed livestock dealer or Alberta registered corporation that is supplied livestock from another Albertan or Alberta registered corporation will be eligible.

The transaction that triggers a claim must be made by parties who are dealing at arm's length.

Will participation in the Fund be mandatory?

The program is voluntary. In order to be eligible, you will have to pay levies on all transactions. If you do not pay levies, you will not be eligible.

How will levies be collected?

Licensed dealers will remit levies at the beginning of each year based on the estimated volume of transactions from the Statutory Declaration form that dealers currently file with LIS as part of their licence application.

Non-dealers and feeders associations will be required to declare prior to January 30th of the year how many transactions they expect for the upcoming year and pay levies accordingly.

Persons exceeding their estimate will be required to notify the Fund administrator and pay the additional levies.

How much money will be in the Fund?

The accumulation of levies will be used to pay claims. The levy amount will initially be ten cents per eligible transaction. Buyers will have to fully participate and pay levies on all purchases in order to have protection of the Fund.

How will claims be processed?

A person, who receives a demand for payment by a lender, claiming a security interest by a previous owner, will be required to notify the Tribunal. The Tribunal will review the demand, and decide whether to pay the demand or to challenge it in court. The buyer will be required to assign the legal right to defend the claim to the Tribunal in the same way that drivers do with car insurance.

The previous questions and answers summarized the key features of the livestock identification and commerce draft model legislation. The following two sections of questions and answers relate to separate, but related, legislative proposals.

Stray Animals

Will the legislation still deal with stray animals?

The owner of livestock will still be responsible for the damage caused by their straying animals.

If you find livestock straying on your property, you can confine the livestock, notify the inspector, and the inspector can have the livestock removed to an auction market for sale.

What livestock will be covered by the Stray Animals Act?

The Act will cover cattle, horses and other animals as specified in the regulation.

How will dangerous stray animals be handled?

The Act will allow for the regulation of particular species of wildlife. Special controls can be instituted for particular species of animals (such as the regulation of wild boars).

Animal Keepers Act

What is the intent of the Animal Keepers Act?

The proposed *Animal Keepers Act* will update and replace the *Livery Stable Keepers Act*. The objective of this Act is to provide a mechanism through which an animal keeper can recover costs. An animal keeper is a person who receives payment for stabling, boarding, feeding or caring for any animal.

Can an animal keeper sell a kept animal?

The *Animal Keepers Act* outlines procedures an animal keeper can utilize to receive payment. An animal keeper has a right of detention and sale of the animal and related gear.

Who cares for the animal if it is detained?

A detained animal will remain in the animal keeper's possession. It is the responsibility of the animal keeper to provide proper care during the time of detention.

Will the owner be notified if the animal or gear is to be sold?

If the owner is known, the animal keeper will provide notice to the owner two weeks prior to the public auction occurring. If the owner is unknown, the animal keeper will provide notice by advertisement in the local newspaper.

Who else needs to be notified of a sale?

If the animal is defined as livestock (cattle and horses) under the *Livestock Identification and Commerce Act*, then LIS will need to be notified of the sale, so LIS can properly allocate any surplus proceeds.

Are liens subject to the Personal Property Security Act?

No, liens incurred as a result of stabling animals will maintain priority over any existing lien, security interest as defined in the *Personal Property Security Act*, agreement of sale or other encumbrance.

Is the animal keeper allowed to retain all of the sale proceeds?	The sale proceeds are paid to the animal keeper to cover the original indebtedness incurred for stabling, boarding, feeding, and caring for the animal. Subsequent expenses related to detention, transport, advertising and the sale of the animal or gear may be recovered through the sale proceeds. The animal keeper does not retain surplus funds.
Will the animal keeper need to post the Act?	No, the animal keeper will no longer need to post the Act.
Can "some" of the animals be sold to satisfy the outstanding lien?	Yes, provisions have been made to accommodate a sale of only *some* of the animals to satisfy an outstanding lien. Also, any or all of the animals can now be sold and proceeds used to satisfy the lien on the entire group of animals originally stabled.
What if a dispute arises?	In the case of a dispute, any person may apply to a court to resolve a person's rights to collect a debt, sell an animal, dispose of proceeds or a surplus, or any other issue that may arise.
Who is the contact person for further clarification?	Rick Frederickson, Livestock Development Division, AAFRD, can be reached by telephone: (780) 427-4589. Dial 310-0000 for toll-free access outside of Edmonton.

Appendix 1: Glossary

Advance Inspection (Exit) Permits (A Form): a document used where a feedlot has the livestock inspected at the feedlot immediately prior to being shipped to a packing plant.

Animal keeper (or keeper): a person who receives payment for stabling, boarding, feeding or caring for any animal.

Assembling station: any area of land, including buildings, pens, fences, gates, chutes, weigh scales and any other equipment located on the land that is operated to weigh and assemble livestock for shipment by any form of transportation in relation to a sale of the livestock, other than a market or country sale.

Authorized electronic identifier: any device implanted beneath or on the skin or within the body of livestock that contains or generates a brand.

Brand: a character or combination of characters used for the purpose of denoting an ownership interest of the brandholder in the livestock bearing the brand.

Brandholder: a person to whom a brand has been allotted by the Minister under the Act.

Buyers' Assurance Fund: a fund established to protect Alberta buyers of livestock from claims by eligible previous owners or security interest holders. The Buyers' Assurance Fund will provide protection for Alberta buyers of livestock who are sued by a lender who has unpaid security relating to livestock sold by an Alberta seller.

Capture: to take possession of by holding captive in a place appropriate on the owner's or occupier's land.

Carrier: the person who operates a vehicle that ships livestock.

Cattle: cattle, including a bull, cow, ox, heifer, heiferette, steer or calf but does not include bison.

Character: a sign, letter, numeral or code.

Confine: to restrict the movement to a limited and defined area on the owner's or occupier's land.

Country sale: a place where livestock are offered for sale to the public but does not include:

(a) a market, assembling station, abattoir, feedlot, or
(b) a private sale of livestock involving only one seller and one buyer.

Dealers' Assurance Fund: the Licensed Livestock Dealers Sellers' Assurance Fund for the protection of licensed livestock dealers from default by non-licensed buyers to licensed livestock dealers. This fund is also called the Sellers' Fund (Dealers).

Entry Permits (A Form): document used where livestock are leaving a market or country sale where they have been inspected as long as the person applies to the inspector within 24 hours of transporting the livestock and the inspector is satisfied that the bill of sale adequately describes the livestock, brands and the destination feedlot or abattoir.

Estray Fund: a trust fund for the expenses and proceeds associated with stray livestock.

Export Permits (A Form): document used when shipping livestock out of Alberta.

Feedlot: fenced or enclosed land or buildings where livestock are confined for the purpose of growing, sustaining, finishing or breeding by means other than grazing and any other building or structure directly related to that purpose but does not include residences, livestock seasonal feeding and bedding sites, equestrian stables, markets, country sales, assembling stations, race tracks or exhibition grounds.

Gear: tack and equipment used for riding, driving, showing or care of animals and stock trailers, horse trailers, sleighs, buggies and carriages.

Honorary brand: a character or combination of characters allotted to a person for the purpose of promoting the livestock industry or for recognizing outstanding service to the livestock industry, but not for the purpose of placing on livestock to denote ownership of that livestock.

Horse: a horse, including mare, stud, gelding, colt or filly, ass or mule.

Identifier: an ear tag or other thing or device implanted, attached or otherwise affixed to or within the body of livestock that contains or generates characters and for which there is a registry recognized by the Minister that associates the characters with some person.

Impound: to take possession of by seizing and holding in lawful custody in a place appropriate on the owner's or occupier's land or at another location.

Indebtedness: the value of stabling, boarding, feeding, and caring for any animal.

Inspect: to discover if a brand or identifier is on the livestock.

Inspection: an inspector will examine the brands on the livestock and compare the information in the brand registry with the information on the paperwork associated with the livestock.

Inspector: a person appointed or authorized to perform any duty under the Act or regulations.

Licence: a livestock dealer's licence or a livestock dealer's agent's licence issued by the Minister under the Act.

Licensed livestock dealer: a livestock dealer who is the holder of a livestock dealer's licence.

Licensed livestock dealer's agent: a livestock dealer's agent who is the holder of a livestock dealer's agent licence.

Livestock: cattle, horses and any other livestock specified in the regulations.

Market: a permanent place or facility where livestock are offered for sale to the public by auction or other means but does not include a feedlot.

Minister: the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for the Act.

Patron: a person who in the ordinary course of the person's farming operation

(a) maintains livestock for the purpose of propagation or the production of livestock products, or

(b) maintains feeder livestock for the purpose of growing or finishing, or both,

and includes a licensed livestock dealer.

Patrons' Assurance Fund: the Livestock Sellers' Assurance Fund for the protection of participants from default by licensed livestock dealers. This fund is also called the Sellers' Fund.

Person associated with: a person who is

(a) a member of the immediate family,

(b) an agent,

(c) a trustee,

(d) a shareholder,

(e) a director, or

(f) an officer

of another person.

Public land: land of the Crown in right of Alberta.

Requested Inspection Document (A Form): document used in certain situations where an individual may request LIS to provide inspection services for specific livestock where the livestock have no present requirement for movement.

Seasonal feeding and bedding site: an over-wintering site where a producer feeds and shelters the producer's livestock on a temporary or seasonal basis only.

Seller: the person purporting to sell or provide the livestock.

Sellers' Fund: the Livestock Sellers' Assurance Fund for the protection of participants from default by licensed livestock dealers. This fund is also called the Patrons' Assurance Fund.

Sellers' Fund (Dealers): the Licensed Livestock Dealers Sellers' Assurance Fund for the protection of licensed livestock dealers from default by non-licensed buyers to licensed livestock dealers. This fund is also called the Dealers' Assurance Fund.

Supplier: the person who supplies livestock to a livestock dealer, livestock dealer's agent or other person in the course of a sales transaction.

Third party claim: a notice in writing, demand or a statement of claim, that has been received by a participant from a person other than the seller who claims title to the livestock and demands from the participant the return of the eligible livestock or payment of the value of the eligible livestock.

Trespass: to enter without authorization on the land owned or occupied by another person or the Crown.

Tribunal: the Livestock Assurance Funds Tribunal.

PROPOSED LIVESTOCK IDENTIFICATION AND COMMERCE ACT

PART I

BRAND

Table of Contents

1. Definitions
2. Brand record
3. Application for brand
4. Placement of brand
5. Authorized electronic identifier
6. Transfer
7. Cancellation
8. Honourary brands
9. Use of brands
10. Age brands
11. Offences
12. Evidence
13. Regulations

1. Definitions

(1) In this Act,

(a) "**authorized electronic identifier**" means any device implanted beneath or on the skin or within the body of livestock that contains or generates a brand;

(b) "**brand**" means a character or combination of characters used for the purpose of denoting an ownership interest of the brandholder in the livestock bearing the brand;

(c) "**brandholder**" means a person to whom a brand has been allotted by the Minister under this Act;

(d) "**cattle**" means cattle, including a bull, cow, ox, heifer, heiferette, steer or calf but does not include bison;

(e) "**character**" means a sign, letter, numeral or code;

(f) "**honorary brand**" means a character or combination of characters allotted to a person for the purpose of promoting the livestock industry or for recognizing outstanding service to the livestock industry, but not for the purpose of placing on livestock to denote ownership of that livestock;

(g) "**horse**" means a horse, including mare, stud, gelding, colt or filly, ass or mule;

(h) "**livestock**" means cattle and horses and any other livestock specified in the regulations;

(i)• "**Minister**" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

• The delegation agreement between the Minister and LIS will continue

2. Brand Record

(1) **Record** – The Minister shall create and maintain a brand record.

(2)* **Contents of record** - The Minister shall include in the brand record;

(a) a description of the brand and its location on the livestock:

(b) the name of the brandholder;

(c) date of allotment;

(d) date of transfer and name of transferee; and

(e) date of cancellation.

(3) **Searches** - On payment of the prescribed fees, any person may search the record of brands or have the record searched and obtain certified extracts from the record.

(4) **Brand registry and public access** - The Minister may, at the times and in a manner that the Minister considers advisable, publish a complete list of the brands recorded under this Act, including honourary brands, and make such list available to the public. The Minister may prescribe a reasonable charge for any volume containing the list or for access to the list.

3. Application for brand

(1) **Application** - Any person may apply to the Minister to be allotted a brand.

(2)* **Form** - The application form shall set out:

(a) the full legal name of the applicant;

(b) if the applicant carries on a business in Alberta under another name, the other business name of the applicant;

(c) if the applicant is a partnership, the name of all individuals and corporate partners and the partnership name under which the partnership carries on business in Alberta;

(d) the address, phone number, and e-mail address (if any);

(e) a description of the brand and its location on the livestock; and

(f) any other information required by the Minister.

(3) **Allotment** - Upon receipt of completed application form, the Minister shall allot the brand and the placement of the brand to the applicant and enter the required information into the brand record, provided that

(a) the applicant pays the prescribed fee; and

(b) the brand is not the same as another brand that has already been allotted.

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* Sections marked with an asterisk are considered more administrative rather than substantive in nature. These sections can be moved from the Act into the regulations.

(4) **Certificate** – The Minister shall provide a certificate to the brandholder indicating that the brand is allotted to that brandholder.

4. Placement of brand

(1) **Method of placement** - A brand may be placed on livestock by:

(a) a hot iron brand,

(b) a freeze brand,

(c) an authorized electronic identifier; or

(d) any other method established in the regulations.

(2) **Position** - A brand must be placed on livestock in the position on the livestock that is allocated by the Minister for that brand.

5. Authorized electronic identifiers

(1) The Minister may authorize the use by brandholders of electronic identifiers to generate a brand in or on livestock subject to such terms and conditions as the Minister may determine.

6. Transfer of brand

(1) **Application** - The brandholder may apply to the Minister to transfer the allotment of the brand to another person.

(2) **Transfer** - The Minister shall allot the brand to the other person and record the transfer provided:

(a) the brandholder and transferee complete and sign the transfer form; and

(b) the prescribed transfer fee is paid.

(3) **Transferee** - When the Minister records the transfer, the transferee becomes the brandholder and the transferor no longer has any rights to the brand.

(4)* **More than one transferee** - A brandholder may transfer the allotment of a brand to the brandholder and another or others; and two or more persons who are brandholders of a brand may transfer it to one or more of them.

(5)* **Death of brandholder** - On the death of a brandholder, the brandholder's personal representative shall notify the Minister and apply for a transfer of the allotment of the brand to the beneficiary.

(6) **Surrender of brand** – A brandholder or the brandholder's personal representative may surrender a brand to the Minister at any time on written notice to the Minister and such surrender shall take effect 30 days of receipt of the notice.

7. Cancellation and changes to brand

(1) **Changes** - The Minister may make changes, not inconsistent with this Act, in any brand, other than an honorary brand, or in the form or position of it, on the application of the brandholder, accompanied with the prescribed fee.

(2) **Similar brands** - Notwithstanding section [3(3), Part 1], if two or more persons have been allotted the same or similar brands, the Minister, if considered advisable, may direct the cancellation of the brand last recorded, or with the consent of the brandholder, any brand previously recorded and may allot another instead of it without charge.

8. Honourary brands

(1) **Application and form** - Any person, on his own behalf or on behalf of another person, may apply to the Minister for the allotment of a honorary brand in such form as the Minister may determine.

(2) **Allotment** - Upon receipt of a completed application form, the Minister may allot a honourary brand to that person.

(3) **Certificate** - The Minister shall provide a certificate of record to the honourary brandholder.

9. Use of brand

(1) The brandholder has the exclusive right to use the brand allotted to him to identify an ownership interest in the livestock.

10. Age brand

(1) **Age brand** - Notwithstanding subsection [11(1), Part 1], a brandholder may place:

(a) an age brand consisting of one Arabic numeral from 0 to 9 inclusive, on the shoulder or thigh and, in the case of horses or cattle, on the same side as the recorded brand, or

(b) an individual animal number brand to cattle, consisting of one or more Arabic numerals on the same side as the recorded brand.

11. Offences and penalties

(1) **Offences** - A person who:

(a) places a brand, or directs, aids or assists in placing a brand, on any livestock with a brand that has not been recorded under this Act or that has been cancelled under this Act,

(b) places or causes, directs or permits to be placed the person's own or any brand, on any livestock of which the person has no ownership interest; or

(c) blotches, defaces or otherwise renders illegible, or alters any brand on livestock, or directs, causes or permits any such brand to be blotched, defaced or otherwise rendered illegible or to be altered,

is guilty of an offence and, in addition to any other penalty to which the person may be subject by law, liable to a fine not exceeding $5,000.

(2) **Honourary brand offence** - A person who knowingly places a honourary brand or directs, aids or assists in affixing a honourary brand, to any livestock is guilty of an offence.

(3) **Other offences** - A person who contravenes this Act or the regulations otherwise than as referred to in subsections (1) and (2) is guilty of an offence.

(4) **Limitation period** - A prosecution under this section may be commenced within two (2) years of the commission of the alleged offence but not afterwards.

12. Evidence

(1) **Certificate of allotment** - A certificate purporting to be signed by the Minister or the Minister's delegate shall be admitted in evidence as proof, in the absence of evidence to the contrary, that the brand is allotted to the brandholder as of the date of the certificate without proof of the signature or official character of the person signing the certificate.

(2) **Possession** - In a prosecution for any offence set out in section [11, Part 1], the fact that the livestock with a brand is found in the possession of the accused is proof, in the absence of evidence to the contrary, that the brand was placed on the stock by the accused, by the accused's direction with the accused's aid or assistance or that the accused caused, directed or permitted the brand to be placed on the livestock.

(3) **Brand** - In a prosecution for any offence, the fact that livestock bears the brand of a brandholder is proof, in absence of evidence to the contrary, that the brandholder has an ownership interest in the livestock.

13. Regulations

(1) **Regulation** - The Minister or Lieutenant Governor in Council may make regulations

(a) respecting forms for use under this Act;

(b) respecting fees payable under this Act, including the imposition of different fees for different categories of brands, persons or services;

(c) respecting other livestock to which this Act shall apply and prescribing the sections of the Act that shall or shall not apply to specific livestock;

(d) respecting...

PROPOSED LIVESTOCK IDENTIFICATION AND COMMERCE ACT

PART II

LIVESTOCK IDENTIFICATION AND BRAND INSPECTION

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1. Definitions
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3. Powers of Inspectors
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5. Inspection sites
6. Issue of entry permits
7. Obligations on operators of inspection sites
8. Fees for inspection
9. Transportation of livestock
10. Documents
11. Offences
12. Regulations

1. Definitions

(1) In this Act,

(a) **"abattoir"** means a premises or facility, including a multi-location abattoir, where livestock are slaughtered;

(b) **"assembling station"** means any area of land, including buildings, pens, fences, gates, chutes, weigh scales and any other equipment located on the land that is operated to weigh and assemble livestock for shipment by any form of transportation in relation to a sale of the livestock, other than a market or country sale;

(c) **"carrier"** means the person who operates a vehicle that ships livestock;

(d) **"country sale"** means a place where livestock are offered for sale to the public but does not include:
(i) a market, assembling station, abattoir, feedlot, or
(ii) a private sale of livestock involving only one seller and one buyer;

(e) **"feedlot"** means fenced or enclosed land or buildings where livestock are confined for the purpose of growing, sustaining, finishing or breeding by means other than grazing and any other building or structure directly related to that purpose but does not include residences, livestock seasonal feeding and bedding sites, equestrian stables, markets, country sales, assembling stations, race tracks or exhibition grounds;

(f) **"identifier"** means an ear tag or other thing or device implanted, attached or otherwise affixed to or within the body of livestock that contains or generates characters and for which there is a registry recognized by the Minister that associates the characters with some person;

(g) **"inspect"** means to inspect livestock to discover if a brand or identifier is on the livestock.

(h) **"inspector"** means a person appointed as an inspector under section [2, Part 2];

(i) **"market"** means a permanent place or facility where livestock are offered for sale to the public by auction or other means but does not include a feedlot;

(j) **"seasonal feeding and bedding site"** means an over-wintering site where producer feeds and shelters the producer's livestock on a temporary or seasonal basis only.

2. Inspectors

(1) **Appointment** - The Minister may appoint supervisors, livestock inspectors and any other persons required for the purposes of this Act and the regulations, and may prescribe the duties and fix the remuneration for any person appointed who is not an employee as defined in the *Public Service Act*.

(2) **Police officer** - Every police officer and member of the Royal Canadian Mounted Police is by virtue of that position an inspector under this Act and has the same powers and duties as are conferred or imposed on an inspector under this Act and the regulations.

(3) **Peace officer** - An inspector, in the exercise and discharge of the inspector's powers and duties, is a person employed for the preservation and maintenance of the public peace.

3. Powers of Inspectors

(1) **Right to enter** - An inspector may,

(a) at any reasonable time enter any place, other than a dwelling place, for the purpose of making inspections under this Act,

(b) at any reasonable time enter any place, other than a dwelling place, for the purpose of determining if there are livestock on the land that the owner or occupier of the land does not have the right to possess;

and shall, on request, produce the inspector's badge or certificate of appointment.

(2) **Scope of search** - In this section, "land" includes any pasture, leased land, cattle enclosure, corral, barn, lean-to, feed shed, windbreak or any other structure that may be used to house, protect or conceal livestock, but does not include a dwelling place.

(3) **Right to records** - An inspector may, on production of the inspector's badge or certificate of appointment, require the production of any bills of sale, books, records or other documents that are relevant to the purpose of the inspection and examine them, make copies of them, or remove them temporarily for the purpose of making copies.

(4) **Removal of records** - Where an inspector removes any bills of sale, books, records or other documents under subsection (1)(b), the inspector shall

(a) give to the person from whom the items were taken a receipt for the items, and

(b) forthwith return the items to the person from whom they were taken when they have served the purposes for which they were taken.

(5) **Right to seize** - When an inspector finds any thing that the inspector has reasonable and probable grounds to believe affords evidence of the contravention of this Act or the regulations, the inspector may forthwith seize the thing and shall subsequently deal with it as if the seizure had been effected under a search warrant issued pursuant to the provisions of the *Criminal Code* (Canada) that apply to the *Provincial Offences Procedure Act*.

(6) **Right to inspect vehicles** - An inspector, on production of the inspector's badge or certificate of appointment, may at any time search without a warrant any vehicle in or on which livestock is being carried.

(7) **Obligation on carrier** - A carrier, when required by an inspector to do so, shall:

(a) bring the vehicle to a stop and remain stopped until the person is permitted by the inspector to leave;

(b) permit the inspection of the vehicle and livestock by the inspector;

(c) truthfully answer all questions put to the person by the inspector concerning the information required to complete a livestock manifest;

(d) produce to the inspector livestock manifests or permits for all livestock that is being carried on the vehicle; and

(e) transport the livestock to the nearest point where reasonable unloading facilities are available and unload the livestock for inspection, for which no compensation may be claimed.

(8) **Right to detain livestock** - An inspector may, for the purpose of carrying out the inspector's duties under this Act, detain livestock at the owner's expense.

(9) **No removal of detained livestock** - When an inspector detains livestock under subsection (8), no livestock may be removed from the place where the livestock was detained until authorization to remove the livestock is given by an inspector.

4. Inspection

(1) **Inspection for brands** – When an inspector inspects livestock at an inspection site or at any other place, the inspector shall determine if there is a brand on the livestock and, if a brand is discovered, then the inspector shall determine the name of brandholder by comparing the brand to the allotted brands in the brand record.

(2) **Other identifiers** – If the livestock has no brand but has an identifier, the inspector may determine the name of the person associated with those characters by searching the approved registry.

(3) **Authorized possession** - If the person in possession of the livestock is not the registered brandholder or the person associated with the identifier, then the person shall provide such documents and other information to the inspector as the inspector may require to be satisfied that the person is in possession of the livestock with the authority of the brandholder or that the brandholder no longer has any rights to possession of the livestock (collectively "authorized possession").

(4) **Multiple brands** – If the livestock has more than one brand on it, then the person in possession of the livestock shall provide such documents and other information to the inspector as the inspector may require to be satisfied that the other brandholders no longer have any right to possession of the livestock.

(5) **Detention** - If the inspector is still not satisfied that the person in possession of the livestock is not the brandholder or does not have authorized possession, then the inspector shall

(a) detain the livestock; or

(b) if the livestock is about to be sold

(i) require the dealer to detain the livestock, or

(ii) allow the sale to proceed and require the dealer to detain the proceeds.

(6) **Detention (improper manifest)** – The inspector may detain proceeds of a sale of livestock if the manifest indicates that proceeds are payable to only one of two or more joint brandholders unless the other joint brandholders sign the manifest or provide other written authorization.

(7) **Procedure on detention** - When livestock or proceeds are detained, the inspector shall review such other documents and make such other investigations, as the inspector considers necessary, to determine if the person who was in possession of the livestock immediately prior to the detention was the brandholder or had authorized possession. Such person shall provide records and assistance to the inspector as the inspector considers necessary.

(8) **Release of detention** - If the inspector is satisfied that the person who had possession of the livestock was the brandholder or had authorized possession, then the inspector shall release the detention of the livestock or proceeds.

(9) **Detained proceeds** - If the inspector is not satisfied, then the inspector may instruct the dealer to pay the proceeds to the Minister. The Minister shall hold the proceeds in trust. The Minister shall pay the proceeds out of the trust:

(a) to any person who can establish, to the satisfaction of the Minister, that the person was the brandholder or had authorized possession of the branded livestock; or

(b) when two or more persons may be the brandholder or have authorized possession:

(i) to the court when a court action has been commenced related to the proceeds;

(ii) to the person who is awarded the proceeds by the court; or

(iii) when all competing claimants agree, to any person.

When proceeds are not paid out under subsection (i) or (ii) within two (2) years of the date of the transaction, then the Minister shall pay the proceeds equally to the Sellers' Assurance Fund and the Buyers' Assurance Fund and no person shall have a further claim against the Minister or the Funds for payment of the proceeds.

5. Inspection at inspection sites

(1) **Mandatory inspection sites** - An inspector shall inspect livestock, in a manner and at a level satisfactory to the inspector, that enter the following inspection sites at the time of entry:

(a) markets,

(b) feedlots,

(c) abattoirs,

(d) assembling stations, and

(e) country sales.

(2)* **Exception for abattoirs (mobile butchers)** – Inspection of livestock prior to slaughter by a mobile butcher is not required if the mobile butcher sends the Minister a monthly report describing the livestock, brands (if any) and client name of any livestock killed by the mobile butcher and any other information required by the Minister.

(3)* **Exception for country sale (one contributor)** – Inspection of livestock at a country sale is not required if:

(a) the person operating the country sale provides notice to the Minister under section [5(10), Part 2] and requests a country sale without inspection; and

(b) the Minister approves the request and issues a notice in writing that the country sale may proceed without inspection.

(4)* **Exception for feedlots and abattoirs (entry permits)** - Inspection of livestock that enter an abattoir or feedlot is not required if:

(a) the livestock were transported directly from a market or country sale where the livestock were inspected;

(b) the livestock are accompanied by an entry permit issued by an inspector at the country sale or market that describes the livestock and brands or identifiers; and

(c) the livestock are marked or transported in a manner that separates them from other uninspected livestock.

(5)* **Exception for feedlots and abattoirs (reciprocal jurisdictions)** – Inspection of livestock that enter an abattoir or feedlot is not required if:

(a) the livestock were transported directly from an inspected market outside of Alberta;

(b) the livestock were inspected at that market and accompanied by documents issued by the inspectors at that market;

(c) the livestock were marked or transported in a manner that separates them from other uninspected livestock; and

(d) the Minister has entered into a reciprocal agreement between Alberta and the other jurisdiction regarding livestock inspection.

(6)* **Advance inspection for abattoirs and feedlots** – Inspection of livestock that enter a feedlot or abattoir may take place prior to entry provided that:

(a) the livestock were at a feedlot and were inspected immediately before being transported to the destination feedlot or abattoir;

(b) the livestock were marked or transported in a manner that separates from other uninspected livestock; and

(c) the livestock are accompanied by an advance inspection permit issued by the inspector at the originating feedlot.

(7)* **Exception for feedlots (from other feedlots)** – Inspection of livestock that enter a destination feedlot is not required if:

(a) the livestock were transported directly from an originating feedlot;

(b) the livestock were inspected upon entering the originating feedlot or entered the originating feedlot on an entry permit;

(c) the livestock were kept separate from other livestock while in the originating feedlot and during transportation to the destination feedlot;

(d) the livestock are accompanied by the entry permit on which they entered the originating feedlot; and

(e) the Minister is notified at least 24 hours prior to shipment from the originating feedlot;

(f) notwithstanding clauses (a) to (e), the inspector may require an inspection be performed.

(8)* **Procedure for inspection at feedlots -**

(a) A person who is the owner or operator of a feedlot and who accepts livestock for entry on the feedlot premises, other than livestock that enter under an entry permit, shall notify the Minister within 24 hours after the livestock has entered on the premises.

(b) Unless otherwise authorized by the Minister, the operator of the feedlot shall keep the livestock separate from any other livestock until it has been inspected and shall provide facilities considered adequate by the Minister for any inspection required.

(c) When an inspection is made pursuant to this section, the operator of the feedlot shall provide the inspector with the information prescribed in the regulations in the form and manner prescribed in the regulations.

(9)* **Procedure for inspection at feedlots (from uninspected jurisdictions)** – If the livestock arriving at a feedlot are from a jurisdiction without brand inspection, the Minister may, upon receiving notice under subsection 8(a),

(a) send an inspector to the feedlot to inspect the livestock; or

(b) notify the feedlot that no inspection is necessary.

(10)* **Procedure for county sales** - A person who proposes to conduct a country sale shall:

(a) give notice to the Minister at least seven (7) days prior to the date of the sale setting out:

(i) the date, time and place of the sale;

(ii) the name of the seller of the livestock;

(iii) the number of head of livestock to be offered for sale;

(iv) any brands, other identifiers or pedigree tattoos on the livestock, if known in advance;

(v) any other information required by the Minister; and

(b) shall keep all livestock, that have not been inspected, separate from other livestock until the uninspected livestock have been inspected or the operator has received notice from the Minister that no inspection is required.

(11)* **Inspection of livestock en route** - Livestock that is being transported within Alberta or is being transported through Alberta from another jurisdiction and is brought into a market or feedlot for weighing, rest or feeding may be inspected and, if the movement of the livestock is not related to a sale of the livestock in Alberta, no inspection fee shall be charged.

(12)* **Requested inspection** - At the request of any person in possession of livestock, an inspector may inspect the livestock and issue a requested inspection document.

6. Issue of entry permits *["A Forms"]*

(1) **Issue** - An inspector shall issue an entry permit, without payment of a fee, to a person transporting livestock from a market or an inspected country sale to an abattoir or feedlot provided:

(a) the person applies to the inspector within 24 hours of transporting the livestock; and

(b) the inspector is satisfied that the bills of sale adequately describe the livestock and that the destination is a feedlot or abattoir.

(2)* **Validity** - An entry permit is valid for four (4) days from the date the permit was issued.

(3)* **Change of destination and/or owner** – An entry permit shall list the market or country sale of origin and the abattoir or feedlot of destination or other location not defined as an inspection site. If the destination feedlot, abattoir or other location not defined as an inspection site of the livestock changes en route, then the carrier or other authorized person may alter the entry permit by changing the destination or name of the owner and shall provide a copy of the amended entry permit to the inspector at the point of origin.

(4) **Satisfactory bills of sale** - If bills of sale presented under subsection 5(1) are not satisfactory,

(a) the livestock may be detained at the abattoir's or feedlot's expense until satisfactory bills of sale have been provided, or

(b) the livestock may be re-inspected by an inspector.

(5) **Re-inspection** - If the inspector considers it necessary for the livestock to be re-inspected, the feedlot or abattoir shall, prior to the inspection,

(a) provide the inspector with the information prescribed in the regulations in the form and manner prescribed in the regulations, and

(b) pay the prescribed inspection fee.

(6) **Similar document** – The Minister may require that all persons shipping livestock from an inspection site obtain a document in substantially the same form and in the same manner as an entry permit.

7.* Obligations on operators of inspection sites

(1)* **Provide facilities, lighting and office** - Every operator of an inspection site shall:

(a) provide suitable buildings, alleys, pens, chutes and gates adequate for an inspector to carry out the inspector's duties under this Act;

(b) install and maintain sufficient artificial light where inspections are carried out in buildings or when inspections are necessary other than during daylight hours; and

(c) when required, lease an office to the Minister for use by the inspector at a reasonable rate as determined by the Minister.

(2)* **Adequate facilities** - The facilities shall be adequate and suitable in the opinion of the Minister.

(3)* **Notify inspector of arrival at assembling station** – A person who delivers livestock to an assembling station shall give notice to the Minister at least seven (7) days prior to the date the livestock will arrive setting out:

(a) the date and time the livestock will arrive at the assembling station;

(b) the location of the assembling station;

(c) the estimated number of head of livestock arriving;

(d) any brands on the livestock, if known; and

(e) any other information required by the Minister

(4)* **Retention and inspection of records (assembling stations and feedlots only)** - All operators of inspection sites who are not dealers shall keep records for a period of five (5) years and allow inspection of those records as if they were a dealer.

8. Inspection fees

(1) **Obligation to pay fees** – If livestock are being sold at an inspection site, then the seller of the livestock shall pay the inspection fee.

(2)* **No fee inspections** – No fee is payable for:

(a) inspections under section [3(1), Part 2];

(b) inspection where no fee is payable pursuant to a reciprocal agreement; and

(c) such other inspections as the Minister may determine.

(3)* **Fees** – *[Fees to be set by regulation.]*

(4) **Collection** - When livestock are delivered to an inspection site for sale, the operator of the inspection site shall collect from the seller the inspection fee for inspections required by this Act and shall remit the inspection fee to the Minister.

(5) **Commission** - A person who collects an inspection fee pursuant to subsection (3) may receive a commission in accordance with the regulations.

(6) **Payment** – A person shall pay or an operator shall remit the inspection fees to the Minister, either before or after an inspection, as required by the Minister. The Minister may refuse to allow inspections if the seller or the operator of the inspection site fails to remit inspection fees as required.

9. Transportation

(1) **Documents for shipping livestock** - When livestock are shipped, a livestock manifest shall be prepared by the person delivering the livestock to the carrier and shall accompany the livestock.

(2) **Shipment outside of Alberta** – When livestock are being shipped to a destination outside of Alberta, an inspector shall inspect the livestock prior to shipment and the inspector shall issue an export permit.

(3)* **Shipment outside of Alberta (exception)** – No inspection is required when livestock is being shipped to a destination outside of Alberta from a market or country sale where livestock have been inspected and the livestock are accompanied by an entry permit issued by the inspector at the inspection site.

(4)* **Shipment outside of Alberta (exception)** – No inspection is required when livestock is being shipped to an inspected market outside of Alberta provided the Minister has entered into a reciprocal agreement between Alberta and the other jurisdiction regarding livestock inspection.

(5)* **Exception (general)** – No manifest is required when livestock are being shipped for the purposes of receiving veterinary services, or are being returned to the original point of shipment after having received veterinary services.

(6)* **Horse permits** – No manifest or inspection is required when the livestock are horses and the Minister has issued a horse transportation permit for that horse and the horse transportation permit accompanies the horse. The horse transportation permit is valid for as long as the applicant owns the horse or, for an annual permit, for the calendar year in which it was issued.

10. Documents

(1)* **Manifests** - A manifest shall be in the form set out in regulations and shall set out the following:

(a) the name and address of the person from whom the livestock have been received for shipment;

(b) name of the brandholder, if applicable;

(c) the date of the shipment;

(d) the point of origin of the shipment;

(e) the name of the carrier, including the name of the operator and license number of the vehicle;

(f) the name and address of the person to whom delivery of the livestock is to be made;

(g) the destination of the shipment;

(h) a description of the livestock, including number, colour, kind and a description of brands on each head, if applicable; and

(i) shipping charges.

(2)* **Copies** - Every market operator or person employed by the market operator to receive livestock for sale, slaughter or shipment shall obtain from the carrier two (2) copies of a completed livestock manifest and shall distribute the copies as prescribed by the regulations.

(3)* **Pens** - When livestock of the same owner in a shipment are separated into more than one pen, the market operator or person employed by the market operator shall identify the livestock in each pen in accordance with the regulations.

(4)* **Permits** - Livestock entry permits, livestock export permits, livestock advance inspection permits, and requested inspection documents shall be the form prescribed by the Minister and shall contain the same information as the manifest.

(5)* **Copies** – Copies of the livestock entry permit, livestock export permits, livestock advance inspection permits, and requested inspection documents shall be provided to the same persons as the manifest and the name of the dealer. The Minister may issue an inspection document in a similar form for inspections that are performed by inspectors, but not required under this Act.

(6)* **Bill of sale** - A bill of sale shall contain the following information:

(a) the date of the transaction;

(b) the proper name of the buyer and seller;

(c) the number of livestock;

(d) the colour of the livestock;

(e) the kind of livestock;

(f) a description of the livestock, including the brand or any other marks on each head of livestock; and

(g) the purchase price.

(7) **Obligation to provide bills of sale** -

(a) **Markets** - A market operator shall, on delivery of livestock to a purchaser, issue a bill of sale in accordance with the regulations to each purchaser in respect of the livestock purchased by the purchaser and is the agent of the vendor for that purpose.

(b) **Country sales** - The operator of a country sale shall, on delivery of livestock to a purchaser, issue a bill of sale in accordance with the regulations to each purchaser in respect of the livestock purchased by the purchaser and is the agent of the vendor for that purpose.

(c) **Seller** - An owner of livestock or the owner's agent who has received written authorization to sell livestock on behalf of the owner shall provide a bill of sale to any person acquiring the livestock from the owner or the owner's agent.

(d)* **Name of seller** - A bill of sale issued by the market operator or country sale operator must contain the name of the seller as shown on the relevant manifest.

(e)* **Retention** - The market operator or country sale operator shall retain a copy of each bill of sale issued by the operator for five (5) years.

11. Offences

(1) **Misleading manifests** - A person who:

(a) does not fully complete the information required,

(b) provides false information, or

(c) describes livestock incorrectly,

on a livestock manifest is guilty of an offence and liable to a fine not exceeding $5,000. *[note that all fine amounts will be moved to regulation]*

(2) **Altering forms** - A person who, without the consent of the livestock owner or the owner's agent, alters a livestock manifest, permit or requested inspection document is guilty of an offence and liable to a fine not exceeding $5,000.

(3) **Exception** - A livestock manifest or permit that has been altered without the consent of the owner or the owner's agent at the time it is tendered by an operator of a vehicle for acceptance is proof, in the absence of evidence to the contrary, that the alteration was made by the operator of the vehicle.

(4) **Use of alias** - A person who:

(a) buys livestock,

(b) sells livestock, or

(c) offers livestock for shipment,

in any name other than the name of the owner of the livestock is guilty of an offence and liable to a fine not exceeding $5,000.

(5) **Changes to livestock lots** - A person who, without the consent of an inspector, removes, substitutes or adds livestock to a lot of livestock for which an inspector has issued a livestock permit is guilty of an offence and liable to a fine not exceeding $5,000.

(6) **Altering forms** - A person who alters or obliterates any part of any form prescribed by this Act or the regulations, other than an inspector acting in the performance of the inspector's duty, is guilty of an offence and liable to a fine not exceeding $5,000.

(7) **Shipment of livestock without inspection** - A livestock owner or an agent acting on the owner's behalf who transports or attempts to transport livestock out of Alberta, other than livestock delivered directly to an inspected market outside Alberta to a province that has a reciprocal agreement with Alberta, for sale or slaughter, without first having the livestock inspected and paying the prescribed inspection fees, is guilty of an offence and liable to a fine not exceeding $5,000.

(8) **Slaughter without inspection** - The owner or operator of a market or country sale where inspection service is required, who slaughters or offers livestock for sale without first having the livestock inspected is guilty of an offence and liable to a fine not exceeding $5,000.

(9) **Payment of proceeds** - A market operator who, without authorization in writing from an inspector, makes the proceeds of a sale payable to a person by any name other than that shown on the relevant livestock manifest is guilty of an offence and liable to a fine not exceeding $5,000.

(10) **Transportation of uninspected livestock** - A person who:

(a) being a carrier knowingly uses the vehicle in Alberta for the purpose of transporting livestock out of Alberta that is not accompanied by the manifest or permit as required by this Act, or

(b) being the owner of a vehicle knowingly allows the vehicle to be used in Alberta for the purpose of transporting livestock out of Alberta that is not accompanied the manifest or permit required by this Act,

is guilty of an offence and liable to a fine not exceeding $5,000.

(11) **Transportation without manifest or permit** - A person who transports livestock or causes livestock to be transported without the necessary livestock manifest, livestock permit or horse permit, as the case may be, is guilty of an offence and liable to a fine not exceeding $5,000.

(12) **Removal of hides** - A person other than the owner of the livestock or the owner's agent who removes the hide from the carcass of any livestock found dead is guilty of an offence and liable to a fine not exceeding $5,000.

(13) **Obstructing an inspector** - A person who obstructs or hinders an inspector in the exercise of the inspector's powers or the performance of the inspector's duties is guilty of an offence and liable to a fine not exceeding $10,000.

(14) **General offence** - A person who contravenes this Act or the regulations is guilty of an offence and, except where a penalty is specifically provided, is liable to a fine not exceeding $5,000.

(15) **Limitation period** - A prosecution under this Act may be commenced within two (2) years of the commission of the offence but not afterwards.

(16) **Agents** - In any prosecution for any offence against this Act or the regulations, the fact that any livestock is offered for shipment or sale by an agent of an owner is proof, in the absence of evidence to the contrary, that it was done with the authorization of the owner.

12. Regulations

(1) **Regulations** - The Minister or Lieutenant Governor in Council may make regulations

(a) respecting ....

PROPOSED LIVESTOCK IDENTIFICATION AND COMMERCE ACT

PART III

LIVESTOCK AND LIVESTOCK PRODUCTS

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1. Definitions

(1) In this Act,

(a) **"inspector"** means an inspector or other officer or person appointed or authorized to perform any duty under this Act or under any regulation;

(b) **"licence"** means a livestock dealer's licence or a livestock dealer's agent's licence issued by the Minister under this Act;

(c) **"licensed livestock dealer"** means a livestock dealer who is the holder of a livestock dealer's licence;

(d) **"licensed livestock dealer's agent"** means a livestock dealer's agent who is the holder of a livestock dealer's agent licence;

(e) **"livestock dealer"** means a person who deals in livestock as defined in section [2(1), Part 3];

(f) **"livestock dealer's agent"** means a person who acts as agent for a livestock dealer;

(g) **"livestock products"** means meat or raw hides, in any form;

(h) **"patron"** means a person who in the ordinary course of the person's farming operation:

(i) maintains livestock for the purpose of propagation or the production of livestock products, or

(ii) maintains feeder livestock for the purpose of growing or finishing, or both.

and includes a licensed livestock dealer;

(i) **"person associated with"** means a person who is:

(i) a member of the immediate family,

(ii) an agent,

(iii) a trustee,

(iv) a shareholder,

(v) a director, or

(vi) an officer

of another person.

(j) **"Tribunal"** means the Livestock Patrons' Claims Review Tribunal established under section [1(1), Part 6] of this Act.

2. Licence requirement

(1) **Dealing in livestock** – A person deals in livestock if that person:

(a) buys livestock;

(b) sells livestock;

(c) acts as an agent in the selling of livestock and, in such selling, receives a payment from the buyer;

(d) acts as an agent in the buying of livestock and, in such buying, makes a direct payment to the seller; or

(e) assists in the buying or selling of livestock by compiling or providing information on livestock that are for sale and handles the sale proceeds.

(2) **Prohibition** – No person shall deal in livestock unless that person is licensed as a livestock dealer.

(3)* **Exceptions** – A person may deal in livestock without a licence if:

(a) **30-days (buyer)** – the person buying livestock does not intend to sell the livestock within 30 days of purchase;

(b) **30-days (seller)** – the person selling livestock has owned the livestock for the past 30 days; or

(c) **Public groups** – the person is an exhibition society, agricultural society or 4-H club.

(4) **Dealer's agents** – A person acts as a dealer's agent if that person:

(a) buys or sells livestock on behalf of and in the name of a livestock dealer, or

(b) negotiates an arrangement as a consequence of which livestock are delivered to a livestock dealer.

(5) **Prohibition** - No person shall act as a dealer's agent, unless that person is licensed as a dealer's agent for that dealer.

(6) **Corporations** – For the purpose of this section, any individual who acts as an agent of a dealer that is a corporation shall be licensed as a dealer's agent.

3. Applying for a licence

(1) **Application form** – A person may apply to the Minister for a livestock dealer or livestock dealer's agent licence by submitting an application to the Minister in the form determined by the Minister.

(2)* **Information** - An applicant for a livestock dealer's licence or a livestock dealer's agent's licence shall provide the Minister with:

(a) in the case of an applicant who is an individual, the applicant's name and address;

(b) in the case of an applicant that is a partnership, the name and address of each partner;

(c) in the case of an applicant that is a corporation or co-operative association, the registered name and address of the company or co-operative association; and

(d) any other information required by the Minister.

(3)* **Statutory declaration (renewal)** - In addition to the requirements of subsection (2), an applicant for a renewal of a livestock dealer's licence shall submit with the application, a statutory declaration that sets out, for the immediately preceding 12-month period:

(a) the total head of livestock that, as part of the applicant's operation as a livestock dealer,

(i) the applicant purchased on a live or dressed basis, or

(ii) was delivered to the applicant for sale on a commission or consignment basis;

(b) the total head of livestock on which, as part of the applicant's operation as a livestock dealer, the applicant charged a fee or commission for compiling and providing information on livestock that are for sale; and

(c) such further information as required by the Tribunal related to participation in the Sellers' Assurance Fund or the Buyers' Assurance Fund.

(4)* **Statutory declaration (new dealer)** – An applicant for a livestock dealer's licence who was not a licensed livestock dealer in the immediately previous year shall provide an estimate of the same information as required under subsection (3). If at anytime during the year, the applicant exceeds the estimate, the applicant shall provide an updated statutory declaration to the Minister and shall provide such further security or take such other steps as a consequence of the increased estimate.

(5)* **Fees** – The application must be accompanied by a fee of $100 for each livestock dealer's licence and $50 for each livestock dealer's agent licence.

(6) **Provides security** - The application must be accompanied by proof of security required under section [8, Part 3].

4. Refusal of licence

(1) **Tribunal payment** – Subject to subsection (2), the Minister may refuse to issue or renew a licence to a person where an amount has been paid from the accounts of the Tribunal with respect to a claim against that person. Subject to subsection (2), the Minister may refuse to issue or renew a licence to a person associated with a person who was directly or indirectly involved in the operation of the business in respect of which the payment from the accounts of the Tribunal was made.

(2) **Reimbursement** – The Minister may issue a license to a person described in subsection (1) if arrangements for reimbursement to the Tribunal have been made. The amount of the reimbursement shall be a percentage of the amount paid from the accounts of the Tribunal that is the same as the percentage interest, as determined by the Minister, of the person or associated person of the livestock dealer whose default resulted in the payment from the accounts of the Tribunal.

(3) **Failure to comply** - The Minister may refuse to issue or renew a licence to a person until the person has established to the satisfaction of the Minister that the person is not and has not been in contravention of this Act or regulations made under this Act, or any of the following Acts or regulations made under those Acts:

(a) *Brand Act*; or

(b) *Livestock Identification and Branch Inspection Act*; or

(c) *Livestock Diseases Act*; or

is not or has not been associated with such a person.

(4) **Unpaid inspection fees** – The Minister may refuse to issue or renew a licence until the person has paid or remitted all inspection or other prescribed fees owing to the Minister or the person has made reasonable arrangements with the Minister for such payment.

(5) **Other circumstances** - The Minister may refuse to issue or renew a license to a person if the person is not of good character and reputation.

5. Issue of licence

(1) **Discretion** - The Minister may in the Minister's discretion approve an application and issue a licence to the applicant.

(2)* **Form** - When an application for a licence has been approved, the Minister may issue a licence in the form prescribed by the Minister authorizing the applicant to act as a livestock dealer or livestock dealer's agent, as the case may be, in Alberta.

(3)* **Partnership** - Where a licence is issued to an applicant that is a partnership, each member of the partnership must be issued a copy of the licence.

(4)* **Produce on request** - A licence holder shall produce the licence for inspection on demand by an inspector or any seller or buyer of livestock.

(5)* **Lost license** - On proof being supplied to the satisfaction of the Minister that a licence has been inadvertently lost or destroyed, the Minister may issue a duplicate licence.

(6) **Term** - every licence issued under this Act expires on December 31 of the year it was issued.

(7)* **Non-transferable** - A licence is not transferable.

6. Suspension or cancellation of licence

(1) **Suspension or cancellation** - The Minister shall cancel or suspend, for a specified period or indefinitely, a licence previously issued in any case in which the Minister is satisfied that the holder of the licence has:

(a) in relation to dealing in livestock or livestock products, contravened the regulations in relation to that dealing; or

(b) defaulted to a patron.

(2) **In writing** - The suspension or cancellation of a licence by the Minister must be in writing and delivered personally or by registered mail to the last known postal address of the licence holder.

(3) **Return** - If a livestock dealer's licence or a livestock dealer's agent's licence is suspended or cancelled by the Minister, the licence holder shall return the licence to the Minister forthwith.

(4) **Suspended or cancelled license list** – The Minister may notify some or all livestock dealers and livestock dealer's agents of the suspension or cancellation of the licence of another livestock dealer or livestock dealer's agent by means deemed appropriate by the Minister.

(5) **No dealing** – A livestock dealer or livestock dealer's agent who receives notice under subsection (4) shall not buy from nor sell to the person identified in the notice until notification to do so is provided by the Minister.

7. Appeal of refusal, suspension or cancellation

(1) **Appeal rights** - A person who has been refused a licence, or whose licence has been suspended or cancelled pursuant to section [6(1), Part 3] may appeal the refusal, cancellation or suspension by serving the Minister with a notice of appeal within 30 days after being notified in writing of the refusal, cancellation or suspension.

(2) **Limitation period** - The Minister shall, within 30 days after being served with a notice of appeal under subsection (1), appoint an appeal board to hear the appeal.

(3) **Appeal board** - An appeal board appointed pursuant to subsection (2) shall consist of not less than three (3) and not more than five (5) persons, one of whom shall be designated as chair by the Minister.

(4) **Time for decision** - The Minister may prescribe the time within which an appeal board is to hear an appeal and render a decision and the Minister may extend that time.

(5) **Order** - An appeal board that hears an appeal under this section may, by order:

(a) confirm the refusal to issue a licence or the cancellation or suspension of a licence;

(b) direct that the application for a licence be approved;

(c) reinstate a cancelled licence;

(d) institute appropriate terms and conditions for a licence reinstatement; or

(e) remove or vary a suspension.

If the refusal, cancellation or suspension of a license is confirmed, the appeal board may also order that the person may not apply and that no license shall be issued to the person for a period of up to five (5) years.

(6) **Fees** - The Minister may pay reasonable fees and living expenses to the members of an appeal board.

(7) **Appeal of decision** - The Minister or a person whose appeal is heard by an appeal board may appeal the decision of the appeal board by filing an originating notice with the Court of Queen's Bench within 30 days after being notified in writing of the decision of the appeal board, and the Court may make any order that an appeal board may make pursuant to subsection (5).

(8) **Reinstatement pending appeal** - A person

(a) who has been refused a licence or whose licence has been cancelled or suspended under section [6, Part 3], and

(b) who has in respect of that cancellation or suspension commenced an appeal under subsection (1),

may, by filing an originating notice with the Court of Queen's Bench, apply for an order reinstating the cancelled licence or removing the suspension, as the case may be, pending the determination of the appeal.

(9) **Limitation period** - The Court shall hear an application made under this section not less than two (2) days after the originating notice has been served on the Minister.

(10) **Court order** - On hearing an application made under this section, the Court may, subject to any conditions that it considers proper, if any, reinstate the cancelled licence or remove the suspension, as the case may be, pending the determination of the appeal under subsection (5).

8. Security

(1) **Amount of Security** - The amount of security to be provided by an applicant for a licence or a renewal of a licence shall be prescribed by regulation.

(2)* **Form** - When security is required to be furnished under this Act, the security must be in the form of a bond, letter of credit or other form of security acceptable to the Minister.

(3) **Additional security** - The Minister may at any time require any additional security the Minister considers necessary.

(4) **Automatic revocation of license** - If the security is cancelled and new security is not furnished on or before the date on which the cancellation takes effect, or if the Minister requires additional security and it is not furnished within the time prescribed, the licence held by the person in default is automatically revoked.

(5) **Information** - In order to fix the amount of the security, the Minister may require the applicant for the licence to submit to the Minister a financial statement showing the extent of the business in livestock or livestock products carried on or intended to be carried on.

(6) **Confidentiality** - Statements submitted under subsection (5) are to be treated as having been supplied in confidence.

(7) **Release** - When a licence has been surrendered or cancelled or has expired, the Minister may release the security that was furnished on behalf of the person who was licensed if that person provides the Minister with a statutory declaration stating that the person has paid the person's patrons for the value of livestock or livestock products supplied to the person during the time that the person was licensed, and there are no further claims against the security of the person who was licensed.

(8) **Limitation period** - The Minister shall not release any security pursuant to subsection (7) until 60 clear days have elapsed from the date on which the statutory declaration was made.

9. Claims against security

(1) **Default** - A default occurs in respect of a supply of livestock by a person to a licensed livestock dealer when:

(a) the dealer fails to pay the person for the value of the livestock supplied, unless the main reason for the failure to pay is a contract dispute between the dealer and the person respecting the value of the livestock or the obligation to pay for the livestock, or

(b) the dealer fails to pay the person for the value of the livestock supplied, the person obtains a judgment against the dealer based on the dealer's failure to pay and the judgment is unsatisfied for 20 or more days after the judgment becomes final.

(2)* **Application** - If a person has a claim against a dealer as a result of the dealer's default, then the person may apply to the Minister for payment of the claim out of the proceeds of the dealer's security.

(3)* **Statutory declaration** - The person's application to the Minister shall contain a statutory declaration that:

(a) contains or refers to a statement of account showing particulars of the value owed to the patron;

(b) specifies the vouchers, if any, by which the statement of account can be substantiated; and

(c) any other information as the Minister may request.

(4)* **Vouchers** - The Minister may at any time call for the vouchers specified in the statutory declaration.

(5) **Notice** - If the Minister is satisfied that a licensed livestock dealer has defaulted to a person, the Minister may publish a notice on the internet or in as many publications as the Minister considers appropriate, requiring persons who by reason of that default have claims against the dealer, to furnish the Minister by a specified date with particulars of their claims verified by statutory declaration or in any other manner specified by the Minister.

(6) **Enforcing security and payment** - The Minister may take proceedings to collect on the security and pay the proceeds to the claimant if the Minister is satisfied that:

(a) the dealer has defaulted;

(b) the claimant notified the Minister of the non-payment:

(i) as soon as was reasonably possible after the person knew or should have known of the non-payment, and

(ii) within the time specified by subsection (8);

(c) the person did not extend credit to the dealer in the sale of the protected livestock that is the basis of the claim;

(d) the failure to pay was not based on collusion between the dealer and the person; and

(e) the person and dealer or dealer's agent are not associated and are dealing at arms' length as defined in the *Income Tax Act* (Canada).

(7) **Prorated** - If the amount of the bond or the sum realized on the sale of the securities, as the case may be, is insufficient to pay in full all of the claims that the Minister finds to be proved, the patrons shall be paid on a prorated basis.

(8) **Limitation period** – No person is eligible to make a claim or entitled to receive compensation under this section in respect of the default of a dealer unless the person gives notice to the Minister within 60 days after the date that livestock were supplied to the licensed livestock dealer or licensed livestock dealer's agent.

(9)* **Form of notice** - The notice must be in writing and be:

(a) delivered personally to an individual in the office of the Minister, or

(b) sent by registered mail or by telecopier to the Minister.

(10)* **Receipt of notice** - A notice sent by telecopier is not deemed to have been given unless the Minister acknowledges in writing that the notice has been received.

(11) **Notice to Tribunal** - When the Minister approves the claim of a person who is also a patron for eligible livestock and pays an amount from the proceeds of the licensed livestock dealer's security in an amount that is less than 80% of the patron's proven claim, the Minister shall notify the Tribunal of the following:

(a) the name of the patron;

(b) the circumstances that gave rise to the claim;

(c) the amount of the patron's claim that was proved;

(d) the amount of the payment;

(e) whether section [10, Part 3] applies to the payment.

10. Appeal of decisions on security claims

(1) **Appeal of decision** – When the Minister refuses a person's claim under section [9, Part 3], the Minister shall serve the person with a notice of the decision that sets out the grounds on which the refusal is based.

(2) **Limitation period** - A person whose claim for eligible livestock is refused may appeal to the Tribunal within 30 days after the Minister's refusal.

(3) **Default** - A person may not appeal the Minister's decision respecting whether a default has occurred.

(4) **Notice** - An appeal to the Tribunal under this section is made by giving the Minister a notice of appeal.

(5) **Evidence** - If the notice of appeal is given to the Minister within the time period specified in this section, the Minister shall notify the Tribunal and provide the Tribunal with any material in the Minister's possession that is relevant to the appeal.

(6) **Appeal** - After the Tribunal is notified by the Minister that a participant has appealed the decision of the Minister under section [9(6), Part 3] and has considered the material supplied by the Minister and any material submitted by the participant, the Tribunal shall determine whether the participant is entitled to share in the proceeds of the licensed livestock dealer's security under section [9(6), Part 3] and shall provide written reasons to the person.

(7) **Effect of appeal on payment of security proceeds** - If the Minister refuses a person's claim against a licensed livestock dealer's security and the person appeals to the Tribunal within the time specified in subsection (2), the maximum amount that the Minister may pay, pending the determination of the appeal, to a person whose claim against the dealer's security has been approved, is an amount that is calculated as though the person who appealed is entitled to share in the proceeds of the dealer's security.

(8) **Payment if appeal dismissed** - If the person's appeal referred to in subsection (1) is dismissed and no further appeals are taken or any further appeal by the person is dismissed, the Minister may pay the remaining proceeds of the security on a prorated basis to the persons whose claims against the licensed livestock dealer's security were approved.

(9) **Payment if appeal allowed** - If on appeal it is held that a person is entitled to share in the proceeds of the licensed livestock dealer's security, the Minister shall pay to the person the person's share of the proceeds.

11. Livestock transactions

(1) **Value** – In this section, "value" in respect of the sale of livestock means the amount of money that represents the full purchase price paid or to be paid for the livestock or livestock products supplied, excluding any miscellaneous expense, sales commission, livestock inspection fee, check off fee or handling charge, as evidenced by a cheque, statement, invoice, promissory note or other memorandum issued at the time of sale in respect of the livestock or livestock products.

(2) **Supplier** – In this section, a "supplier" means the person who:

(a) sells livestock, or

(b) delivers livestock to sell on behalf of that person to a livestock dealer, livestock dealer's agent or other person.

(3) **Payment for livestock** – Anyone who:

(a) purchases livestock, or

(b) accepts livestock to sell on behalf of a person and sells the livestock,

shall pay the supplier the value of the livestock prior to the close of the next business day following the purchase or sale. If the purchase or sale is on a carcass weight basis, payment must be made by the close of the next business day following the determination of the purchase amount. When a feeder association under the *Feeder Associations Guarantee Act* purchases livestock, the time for payment is five (5) business days following the date of purchase.

(4) **No credit** - For the purpose of subsection 9(6) and Part 5, a payment in accordance with subsection 11(3) does not constitute the giving of credit.

(5) **Dealer's name** - A sale or purchase made by a livestock dealer or livestock dealer's agent must be in the name under which the livestock dealer or livestock dealer's agent is licensed.

(6) **Sale proceeds held in trust** - All money received by a licensed livestock dealer on account of the sale of livestock or livestock products on behalf of a supplier constitute a trust fund in the hands of the livestock dealer for the benefit of the supplier of the livestock or livestock products to the livestock dealer and the livestock dealer shall hold such funds in a trust account in a financial institution, credit union, loan corporation, trust corporation, bank or treasury branch and shall not appropriate or convert any part of it to the livestock dealer's own use or to any use not authorized by the supplier of the livestock or livestock products until the supplier has been paid for them less any and all appropriate commissions and sale charges.

(7) **Audit of trust** - Every licensed livestock dealer shall permit a person authorized by the Minister for the purpose to enter the livestock dealer's premises at any reasonable times to examine and audit the livestock dealer's books and accounts and every financial institution, credit union, loan corporation, trust corporation, bank and treasury branch shall permit a person so authorized to examine its records pertaining to the trust accounts referred to in subsection (6).

(8) **Title to and property in livestock** - Notwithstanding any other enactment or any contract, the title to and property in livestock or livestock products supplied to a person remains with the supplier and does not pass to the person or to any other person claiming through that person until the supplier has been paid for the livestock.

(9) **Security interest does not attach** - Notwithstanding any other enactment or any contract, an interest granted by a person in any livestock that secures payment or performance of an obligation does not attach to livestock delivered to the person by a supplier until that supplier has been paid for the livestock or livestock products.

(10) **Scope** - The Lieutenant Governor in Council may make regulations prescribing the classes or types of livestock to which this section applies. *[Currently, cattle only]*

12. Records

(1) **Records** – A livestock dealer or livestock dealer's agent shall maintain records as prescribed in the regulations.

(2)* **Records (sales by agent)** - In addition to the bill of sale provided to the purchaser of livestock pursuant to section [10(7), Part II], a livestock dealer or livestock dealer's agent who accepts livestock to sell on behalf of a person shall give to the person a copy of the official scale ticket and a statement of sale that contains the following information:

(a) all identification information from relevant manifests, including the number, colour, brand, kind and location of the livestock;

(b) the correct weights of the livestock;

(c) the market price of the livestock;

(d) any deductions and commissions;

(e) the advance payment, if any;

(f) the gross proceeds of sale; and

(g) the net proceeds of sale.

(3)* **Condemned livestock** - If any livestock supplied has been condemned, the livestock dealer or livestock dealer's agent shall give to the person supplying the livestock a certificate showing the cause of condemnation signed by an inspector appointed under the *Meat Inspection Act* or the *Meat Inspection Act* (Canada).

(4)* **Records (purchased livestock)** – In addition to the bill or sale provided to the purchaser of livestock pursuant to section [10(7), Part II], a livestock dealer or livestock dealer's agent who buys livestock from a person shall give to the person a statement of all livestock purchased that contains the following information:

(a) all identification information from relevant manifests, including the number, colour, brand, kind and location of the livestock;

(b) the purchase price of the livestock;

(c) the correct weights of the livestock, if the livestock are purchased on a weight basis; and

(d) such other details of the purchase as prescribed by the Minister, if the livestock are not purchased on a weight basis.

(5) **Maintenance of records** - A livestock dealer or livestock dealer's agent shall keep detailed records of all transactions relating to dealing in livestock in Alberta, including bills of sale under section [10(7), Part II] and statements under this section, and shall, when requested to do so, furnish an inspector with a copy of the records relating to the purchase of any livestock from any person.

(6)* **Contents of records** - The records shall include the name and address of the person, the date of the transaction and all other details required under this Act.

(7)* **Retention of records** - A livestock dealer or livestock dealer's agent shall retain all the records required under this Act for a period of not less than five (5) years from when the records arose.

(8) **Inspection of records** - An inspector may enter the business premises of a livestock dealer or livestock dealer's agent at any reasonable time in order to:

(a) inspect the premises,

(b) examine any documents relating to the business of the livestock dealer or livestock dealer's agent, and

(c) make copies of documents either on the premises or by removing them from the premises.

(9) **Return of records** - Any documents removed from the premises under subsection (8)(c) must be returned to the livestock dealer or livestock dealer's agent as soon as reasonably possible.

13. Conduct of dealers

(1) **Disclosure of conflict** - A livestock dealer or livestock dealer's agent shall not act as agent for both the seller and buyer of livestock and collect a commission or fee from both without disclosing this fact to both parties.

(2) **Disclosure of principal** - A livestock dealer's agent shall not enter into any contract or pay any amount related to livestock without disclosing the name of the livestock dealer for whom he acts.

(3) **Misleading statements** - No livestock dealer or livestock dealer's agent shall publish in any form or by any medium a statement that misrepresents in any manner the goods or services offered by that livestock dealer or livestock dealer's agent, as the case may be.

(4) **Employees** - No livestock dealer or livestock dealer's agent shall make or permit an employee or a person who is under contract to the livestock dealer or livestock dealer's agent to make any statement or representation that is likely to deceive or mislead or that is intended to deceive or mislead a person with respect to a transaction involving the purchase or sale of livestock.

14. Inspectors

(1) **Appointment** - The Minister may appoint any persons the Minister considers necessary as inspectors for the purposes set out in this section, prescribe their duties and fix their remuneration.

(2) **Federal inspectors** - The Minister may appoint officers, inspectors or other employees of any department of the Government of Canada to be inspectors under this Act.

(3) **Powers** - An inspector has full right:

(a) of access to any premises in or on which any livestock or livestock products are bought and sold,

(b) to supervise the weighing and grading of any livestock product at the time of its weighing or grading, and

(c) to examine any scales used for weighing livestock or livestock products for the purpose of ascertaining that they are free from dirt or other substances that would be likely to affect the accuracy of the weighing.

(4) **Weighing** - On the demand of an inspector made within one hour after the weighing of any livestock or livestock product on its sale or purchase, the person who weighed it or the purchaser of the livestock or livestock product shall:

(a) reweigh it in the presence of and under the supervision of the inspector, and

(b) deliver to the inspector a statement in writing in triplicate containing a sufficient description of the livestock or livestock product so weighed, and the inspector shall verify the statement and deliver one copy to the buyer or the buyer's agent, another to the seller or the seller's agent, and retain the third.

(5) **Report** - An inspector shall report in writing to an inspector appointed under the *Weights and Measures Act* (Canada) any breach of that Act.

(6) **Obligations** - If an inspector has reason to believe that a person dealing in any livestock or livestock products is committing or has committed any breach of the *Weights and Measures Act* (Canada), the inspector shall:

(a) without delay report the circumstances on which that belief is formed to an inspector appointed under that Act, and

(b) afford that inspector any information or assistance that the inspector may require.

(7) **Detention** - When an inspector believes on reasonable grounds that this Act or the regulations have been contravened in respect of any livestock or livestock product, the inspector may place the livestock or livestock product under detention.

(8) **Release of detention** - Any livestock or livestock product placed under detention pursuant to subsection (7) shall not be detained:

(a) after the provisions of this Act or the regulations have, in the opinion of the inspector, been complied with, or

(b) after the expiration of 90 days from the date of detention, unless proceedings have been instituted in respect of the contravention, in which case the livestock or livestock product may be detained until the proceedings are finally concluded.

(9) **No damages** - No action for damages lies against the Minister or against any person appointed by the Minister under this Act, in respect of:

(a) any livestock or livestock products placed under detention in accordance with this Act, or

(b) any act required or authorized to be done by this Act that is done in accordance with this Act.

(10) **Expenses** - Any livestock or livestock product placed under detention is at all times held at the risk and expense of the owner or person under whose control the livestock or livestock product was at the time of the detention.

15. General

(1) **Protection from liability** - The members of the Tribunal and the Minister are not personally liable for anything done or not done in good faith under the authority or purported authority of this Act or the regulations.

(2) **Procedural fairness** - The Tribunal and the Minister are bound by the rules of procedural fairness in carrying out their functions under this Act and the regulations.

(3) **Service** - A document that the Minister or the Tribunal is required to serve under this Act may be served personally, or by registered mail or telecopier. A notice sent by telecopier is not deemed to have been served unless the person to whom the document was sent acknowledges in writing that the notice has been received.

16. Penalty for contravention of Act or regulations

(1) **Offence** - A person who contravenes this Act or a regulation under this Act, is guilty of an offence and liable to a fine of not more than $10,000.

(2) **Limitation period** - A prosecution under this section may be commenced within two (2) years of the commission of the alleged offence but not afterwards.

(3) **Penalty for obstructing officer** - A person who:

(a) assaults, obstructs or interferes with an inspector in the performance of the inspector's duty under this Act, or

(b) refuses to allow an inspector to enter a building or other premises that the inspector finds it necessary to enter in the performance of the inspector's duties under this Act,

is guilty of an offence and liable to a fine of not more than $10,000.

17. Regulations

(1) **Regulations** - The Minister or Lieutenant Governor in Council may make regulations

(a) respecting ....

PROPOSED LIVESTOCK IDENTIFICATION AND COMMERCE ACT

PART IV

BUYERS' ASSURANCE FUND

Table of Contents

1. Definitions
2. Eligible participants
3. Eligible transactions
4. Sellers
5. Compensation
6. Levies
7. Regulations

1. Definitions

(1) In this Act,

(a) **"eligible transaction"** means a purchase or agency transaction as defined in section [3, Part 4];

(b) **"Buyers' Fund"** means the Buyers' Assurance Fund established under section [2, Part 6];

(c) **"livestock"** means cattle and horses;

(d) **"seller"** means the person purporting to sell or provide the livestock and meets the requirements in section [4, Part 4];

(e) **"third party claim"** means a notice in writing, demand or a statement of claim, that has been received by a participant from a person other than the seller who claims title to the livestock and demands from the participant the return of the livestock or payment of the value of the livestock;

(f) **"Tribunal"** means the Livestock Assurance Funds Tribunal established under section [1, Part 6].

2. Eligible participants

(1) **Eligible participant** – For the purposes of the Buyers' Fund, a "participant" means:

(a) an individual resident in Alberta;

(b) a corporation incorporated in Alberta;

(c) a corporation incorporated in another jurisdiction but is registered to do business in Alberta as an extra-provincial corporation; or

(d) an individual or corporation from another jurisdiction but that is licensed as a livestock dealer in Alberta.

3. Eligible transactions

(1) **Eligible purchases** – For the purposes of eligibility to the Buyers' Fund, a participant must have:

(a) entered into an agreement for the purchase of eligible livestock from the seller; and

(b) paid the purchase price to the seller.

(2) **Feeder association transactions** – Notwithstanding subsection (1), the purchase of livestock by a feeder member on behalf of a feeder association is an eligible purchase by the feeder association.

(3) **Eligible agency transactions** – For the purposes of eligibility to the Buyers' Fund, an "agency transaction" means the participant:

(a) entered into an agreement with the seller to sell the eligible livestock on the seller's behalf; and

(b) paid the purchase price to the seller.

4. Sellers

(1) **Sellers** – In order to be an eligible transaction under section [3, Part 4], the seller of the livestock must have been:

(a) an individual resident in Alberta;

(b) a corporation incorporated in Alberta;

(c) a corporation incorporated in another jurisdiction but is registered to do business in Alberta as an extra-provincial corporation; or

(d) an individual or corporation from another jurisdiction but that is licensed as a livestock dealer in Alberta.

5. Compensation

(1) **Conditions for compensation** - A participant is entitled to compensation from the Buyers' Fund when:

(a) the participant enters into an eligible transaction with a seller;

(b) the seller in an eligible transaction failed to deliver good title to the livestock to the participant or, in the case of an agency transaction, to the buyer for any reason, including:

(i) the livestock were stolen,

(ii) the livestock were subject to a security interest of another person, or

(iii) the livestock were subject to a trust or equitable right of another person;

(c) a third party claim has been made;

(d) the participant gives notice of the third party claim to the Tribunal along with all supporting information within 14 days of the third party claim or, if the third party claim is a statement of claim, within two (2) days of service;

(e) the Tribunal has determined that there are no reasonable defences to the third party claim; and

(f) the participant has paid levies to the Tribunal as required by section [6, Part 4].

(2) **Disqualifications** – A participant is not entitled to compensation from the Buyers' Fund:

(a) if the participant and the seller are not dealing at arm's length as defined in the *Income Tax Act* (Canada);

(b) if the participant or the seller engaged in collusion; or

(c) if the participant knew that the seller could not pass good title to the participant or, in the case of an agency transaction, to the buyer.

(3) **Limits on payment from the Buyers' Fund** – The Tribunal shall not pay any compensation to the participant:

(a) in an amount greater than 80% of the amount of the third party claim; and

(b) in an amount greater than the amount that is in the Buyers' Fund.

(4) **Limits on compensation** – If the Tribunal determines that there are reasonable defences to the third party claim and:

(a) the participant meets all other conditions for compensation, and

(b) is not disqualified,

the participant may either withdraw its application for compensation or shall assign the right to defend against the third party claim to the Tribunal.

(5) **Defending against the third party claim** - The Tribunal shall be entitled to make all decisions and take all steps it determines advisable in defending the third party claim and the participant shall cooperate with the Tribunal.

(6) **Limits on indemnification** – The Tribunal shall indemnify the participant for all damages and costs for which the participant may become liable. When the participant assigns its claim to the Tribunal under subsection (4), the Tribunal shall not be liable to indemnify the participant for damages in an amount greater than:

(a) 80% of the amount of the third party claim; or

(b) the amount that is in the Buyers' Fund.

6. Levies

(1) **Condition of compensation** – A participant is not eligible for compensation from the Buyers' Fund for any eligible transaction within a calendar year if the participant has not paid the levy for all eligible transactions for that calendar year.

(2) **Amount of levy** – The Tribunal shall set the levy amount for the participants in the Buyers' Fund and a participant who wishes to participate in the Buyers' Fund shall pay the levies in the amount, manner and at the times specified by the Tribunal.

(3) **Review of levy amount** - The Tribunal shall conduct an annual review to determine if the levies charged are appropriate given past and anticipated future claims by participants.

(4) **Collection by the Minister** - The Minister may enter into an agreement with the Tribunal respecting the collection of levies by the Minister on behalf of the Tribunal.

(5)* **Payment (license renewal)** - The Tribunal may require that a licensed livestock dealer who wishes to participate in the Buyers' Fund to pay to the Minister, at the time the livestock dealer applies for a licence, an amount equal to the number of head of livestock that were part of eligible transactions by the livestock dealer during the prior calendar year, as a reference for the licence renewal period, and as set out in a statutory declaration.

(6)* **Payment (new livestock dealers)** – The Tribunal may require that a livestock dealer who was not a licensed livestock dealer in the previous calendar year who wishes to participate in the Buyers' Fund shall pay to the Minister at the time the livestock dealer applies for a license an amount equal to the estimated number of head of livestock that the livestock dealer intends to be part of eligible transactions in the next calendar year and as set out in a statutory declaration. If the livestock dealer exceeds the estimated number of head of livestock in eligible transactions, then the livestock dealer shall notify the Minister and provide a new estimate and pay the levy on such new estimate.

(7)* **Payment (non-dealers)** – The Tribunal may require that a participant, other than a livestock dealer, who wishes to participate in the Buyers' Fund shall pay to the Minister by January 30 an amount equal to the estimated number of livestock related to eligible transactions by the participant in the next calendar year and as set out in a statutory declaration. If the participant exceeds the estimated number of head of livestock in eligible transactions, then the participant shall notify the Minister and provide a new estimate and pay the levy on such new estimate. The minimum amount payable under this section is *[the minimum amount will be set by regulation]*.

7. Regulations

(1) **Regulation** - The Minister or Lieutenant Governor in Council may make regulations

(a) respecting…

PROPOSED LIVESTOCK IDENTIFICATION AND COMMERCE ACT

PART V

SELLERS' ASSURANCE FUND

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9. Regulations

1. Definitions

(1) In this Act,

(a) **"eligible livestock"** means livestock specified in section 4;

(b) **"livestock"** for the purpose of the Sellers' Fund and Sellers' Fund (Dealers) means the classes or types of livestock and livestock products prescribed by the regulations [currently, cattle and horses];

(c) **"Sellers' Fund"** means the Livestock Sellers' Assurance Fund for the protection of participants from default by licensed livestock dealers established under section [2, Part 6];

(d) **"Sellers' Fund (Dealers)"** means the Licensed Livestock Dealers Sellers' Assurance Fund for the protection of licensed livestock dealers from default by non-licensed buyers to licensed livestock dealers established under section [2, Part 6];

(e) **"Tribunal"** means the Livestock Assurance Funds Tribunal established under section [1, Part 6].

2. Eligible participants

(1) **Eligible participant** – For the purpose of the Sellers' Fund, "participant" means:

(a) an individual resident in Alberta;

(b) a corporation incorporated in Alberta;

(c) a corporation incorporated in another jurisdiction but is registered to do business in Alberta as an extra-provincial corporation; or

(d) an individual or corporation from another jurisdiction but that is licensed as a livestock dealer in Alberta.

(2) **Eligible participant** – For the purpose of the Sellers' Fund (Dealers), "participant" means a licensed livestock dealer.

3. Eligible Transactions

(1) **Eligible transactions** - For the purposes of eligibility for the Sellers' Fund, the participant must have:

(a) sold livestock directly to a licensed livestock dealer;

(b) supplied livestock to a licensed livestock dealer to sell on the participant's behalf; or

(c) sold livestock, as a licensed livestock dealer, on behalf of another person to a licensed livestock dealer,

and have delivered the livestock to that licensed livestock dealer.

(2) **Eligible transactions** – For the purpose of eligibility for the Sellers' Fund (Dealers), the participant must have:

(a) sold livestock directly to a buyer, other than a licensed livestock dealer; or

(b) sold livestock on behalf of another person to a buyer, other than a licensed livestock dealer,

and must have delivered the livestock to that buyer.

4. Eligible livestock

(1)* **Eligible livestock** – For the purpose of eligibility for either the Sellers' Fund or the Sellers' Fund (Dealers), the livestock must:

(a) be in Alberta at the time of the transaction and were in Alberta for 30 days prior to the time of the transaction; or

(b) the livestock were not in Alberta for 30 days prior to the time of the transaction, but the livestock had previously been in Alberta, were transported out of Alberta on a grazing permit as specified by the Minister and returned to Alberta and were in Alberta at the time of the transaction; or

(c) the livestock were not in Alberta at the time of the transaction but were sold through auction markets in Dawson Creek, British Columbia or Lloydminster, Saskatchewan and were in Alberta for 30 days prior to the time of the sale.

(2) **Time of transaction** – The time of the transaction means the date on which the parties entered into an enforceable contract related to the eligible transaction as defined in section [3, Part 5].

5. Compensation

(1) **Conditions for compensation** – A participant may be entitled to compensation from the Sellers' Fund or Sellers' Fund (Dealer) if:

(a) the participant entered into an eligible transaction;

(b) the licensed livestock dealer or buyer defaulted to the participant as defined in section [9(1), Part 3];

(c) in the case of the Sellers' Fund, the participant made a claim against the licensed livestock dealer's security pursuant to section [9, Part 3] and received compensation but in an amount less than 80% of the value of the eligible livestock;

(d) in the case of the Sellers' Fund (Dealers), the participant provided the notice in the same form and manner as a person who makes a claim against a licensed livestock dealer's security notice under section [9, Part 3];

(e) the participant has paid levies as required and not made a withdrawal declaration under section [8, Part 5];

(f) the participant notified the Minister of the non-payment:

(i) as soon as was reasonably possible after the participant knew or should have known of the non-payment, and

(ii) within 60 days after the date that eligible livestock were supplied the licensed livestock dealer or buyer;

(g) the participant did not extend credit to the dealer or the buyer in the sale of the eligible livestock that is the basis of the claim,

(h) the failure to pay was not based on collusion between the participant and the licensed dealer or buyer;

(i) the participant and the licensed dealer or buyer are not associated and are dealing at arms' length as defined in the *Income Tax Act* (Canada); and

(j) the participant provided such further information specified by the Tribunal in relation to the eligible transaction.

(2) **Payment by cheque** – If the participant received payment by means of a cheque or other bill of exchange, the participant may be entitled to compensation if the participant presented the cheque for deposit or for cash within a reasonable time after having received the cheque.

(3) **Further information** – A licensed livestock dealer or buyer that has defaulted to a participant and is the subject of a claim shall provide the Tribunal with any information specified by the Tribunal in relation to the eligible transactions.

(4) **Disqualifications** – A participant is not entitled to compensation:

(a) from the Sellers' Fund, if the participant's application for compensation from the licensed livestock dealer's security was denied by the Minister and, if appealed, by the Tribunal and Court of Appeal;

(b) from the Sellers' Fund (Dealers), if:

(i) any of the grounds for disqualifying a person from claiming against a licensed livestock dealer's security are present; or

(ii) on eligible livestock sold to a buyer after a warning under section [6, Part 5] was published by the Minister.

(5) **Limits on compensation** – The Tribunal shall not pay any compensation to the participant in an amount:

(a) greater than 80% of the amount of the value of the eligible livestock, less any amount received by the participant from the claim against the licensed livestock dealer's security; and

(b) greater than the amount that is in the relevant fund.

(6) **Decision of Tribunal** – Upon the Tribunal receiving a notice from a participant or after the Tribunal is notified by the Minister that a payment to a participant has been made under the dealer's security in respect of eligible livestock and the participant has provided any additional material required by the Tribunal, the Tribunal shall:

(a) determine whether the participant is entitled to compensation from the relevant fund based on the requirements of this Act and the regulations;

(b) serve the participant with its written decision and reasons; and

(c) if the participant is so entitled, pay to the participant an amount that is determined in accordance with this Act and the regulations.

(7) **Claims to Tribunal involving an appeal of security claims** –

(a) If the Tribunal decides that the participant is entitled to share in the proceeds of the licensed livestock dealer's security under section [9, Part 3], the Tribunal shall:

(i) determine whether the participant is entitled to a payment from the Sellers' Fund based on the requirements of section [5, Part 5] and the regulations, and

(ii) if the participant is entitled, pay the participant an amount that is determined in accordance with the regulations.

(b) The Tribunal shall serve the participant and the Minister with its written decision under subsection (a) and reasons.

(8) **Calculation** - If an appeal of a decision of the Minister respecting a participant's entitlement to share in the proceeds of a licensed livestock dealer's security affects the amount that any participant receives from the Tribunal, the Tribunal may:

(a) delay determining the amount that the participant is to receive from the accounts of the Tribunal until the appeal is settled, and

(b) make any interim payments from its accounts to the participant on any condition the Tribunal considers appropriate.

(9) **Payments from Tribunal** - The Tribunal, when making a payment from its accounts under subsection (8), may impose any terms and conditions it considers appropriate.

(10) **Appeal to Court of Appeal** –

(a) A patron may appeal a decision of the Tribunal by filing a notice of appeal with the Court of Appeal within 30 days after the Tribunal's decision.

(b) An appeal under this section must be based on a question of law or jurisdiction.

(c) The provisions of the *Alberta Rules of Court* relating to appeals to the Court of Appeal apply, with the necessary modifications, to an appeal under this section.

(d) A notice of appeal filed under this section must be served on the Minister.

(e) The Court of Appeal may make any decision that the Tribunal may make or may refer the matter back to the Tribunal.

(11) **Subrogation** - If the Tribunal pays an amount to a participant, the Tribunal is subrogated to the rights of the participant against the licensed livestock dealer or buyer in respect of the amount, and the Tribunal may maintain an action, in the name of the participant or in the name of the Tribunal, against the dealer or buyer for recovery of the amount.

6.* Warning - Sellers' Fund (Dealer)

(1)* **Warning** - If the Minister receives a notice under subsection [5(1)(d), Part 5] and the Minister is satisfied that the default of the buyer to the licensed livestock dealer is not based on a contract dispute between the buyer and the licensed livestock dealer or if a buyer has not provided the Minister with information under subsection [5(1)(j), Part 5], the Minister may publish a warning setting out:

(a) that the buyer has failed to pay the participant for the value of the eligible livestock sold, and

(b) that licensed livestock dealers may not be eligible to receive a payment from the Tribunal from the Sellers' Fund (Dealers) if they sell eligible livestock to that buyer in the future.

(2)* **Publication of warning** - The Minister may:

(a) publish the warning on the internet and in as many publications as the Minister considers appropriate that circulate in the district in which the dealing in eligible livestock by that buyer is carried on, and

(b) take such other steps that the Minister considers appropriate, for a time period determined by the Minister, to bring the failure to pay by that buyer to the attention of licensed livestock dealers who may sell eligible livestock to the buyer.

7. Levies

(1) **Payment of levies** - Subject to this section, every participant who enters into an eligible transaction shall pay or cause to be paid to the Tribunal a levy from time to time for each head of eligible livestock.

(2) **Amount of levy** – The Tribunal shall set the levy amount for the participants in the Sellers' Fund and the Sellers' Fund (Dealers) and the participant shall pay the levies in the amount, manner and at the times specified by the Tribunal.

(3) **Review of levy amount** - The Tribunal shall conduct an annual review to determine if the levies charged are appropriate given past and anticipated future claims by patrons.

(4) **Collection by Minister** - The Minister may enter into an agreement with the Tribunal respecting the collection of levies by the Minister on behalf of the Tribunal.

8.* Withdrawal from Fund

(1)* **Withdrawal** - A participant who wants to withdraw from the protection offered by the Sellers' Fund or Sellers' Fund (Dealers') under this Part may provide the Minister with a declaration to that effect and a participant who provides the Minister with a declaration is ineligible to receive compensation from the Sellers' Fund or Sellers' Fund (Dealers') under this Part in respect of eligible transactions made in the years following the year the declaration was provided, unless the patron cancels the declaration under subsection (4).

(2)* **Withdrawal (first sale)** - Notwithstanding subsection (1), if a participant who enters into eligible transactions with a licensed livestock dealer for the first time wants to withdraw from the protection offered by the Tribunal under this Part in respect of eligible transactions with licensed livestock dealers made in the year of the first sale and later years, the participant may provide the Minister with a declaration to that effect.

(3)* **Notice** - The participant must provide the declaration referred to in subsection (2) to the Minister within 30 days after the date of the first sale and, upon receipt of the declaration, the participant is ineligible to receive compensation from the Tribunal under this Part in the year of the first sale and later years, unless the patron cancels the declaration under subsection (4).

(4)* **Cancelling withdrawal** - A participant who has made a declaration under subsection (3) may, by a written notice to the Minister, cancel the declaration.

(5)* **Effective date of cancellation** - A participant who cancels a declaration under subsection (1) remains ineligible to receive compensation from the Tribunal under this Part in respect of sales made in the year the notice of cancellation was provided to the Minister.

(6)* **Calculation of compensation amount after cancellation** - The maximum amount that a participant who cancels a declaration under subsection (4) may receive from the Tribunal under this Part in respect of an eligible transaction made in the year following the year the notice cancelling the declaration was provided to the Minister is:

(a) 25% of the amount to which the participant would otherwise be entitled if the sale occurred in the first quarter;

(b) 50% of the amount to which the participant would otherwise be entitled if the sale occurred in the second or third quarter; and

(c) 75% of the amount to which the participant would otherwise be entitled if the sale occurred in the fourth quarter.

(7)* **Refund** - If a participant is, under subsections (1), (2) or (3), ineligible to receive compensation from the Tribunal under this Part in respect of eligible transactions with licensed livestock dealers made in a year, referred to in this section as an ineligible year, the participant may apply for a refund of levies paid in respect of eligible transactions made in the ineligible year.

(8)* **Conditions for refund** - A participant is not entitled to a refund of levies paid in an ineligible year unless:

(a) the patron submits a written application to the Minister that sets out the total number of eligible livestock sold or supplied by the participant to licensed livestock dealers in the ineligible year for which levies were paid;

(b) the Minister receives the application by March 31 of the year following the ineligible year; and

(c) the participant provides the Minister with any information that the Minister requests to verify the number of eligible livestock sold.

(9)* **Payment of refund** - If the Minister is satisfied that a participant is entitled under subsection (7) to a refund of $4,000 or less, the Minister shall pay to the participant the amount from the accounts of the Tribunal.

(10)* **Appeal** - If the Minister refuses to give a refund or if the Minister pays a refund that is less than the refund applied for, the participant who applied for the refund may appeal the Minister's decision to the Tribunal and the Tribunal may:

(a) confirm the Minister's decision, or

(b) direct the Minister to pay from the Tribunal's accounts an amount determined by the Tribunal.

(11)* **Large refunds** - An application by a participant for a refund exceeding $4,000 must be referred to the Tribunal and if the Tribunal is satisfied that the participant is entitled under subsection (7) to a refund, the Tribunal shall pay to the participant an amount determined by the Tribunal from its accounts.

2. Regulations

(1) **Regulation** - The Minister or Lieutenant Governor in Council may make regulations...

(a) respecting...

PROPOSED LIVESTOCK IDENTIFICATION AND COMMERCE ACT

PART VI

LIVESTOCK ASSURANCE FUNDS TRIBUNAL

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1. Tribunal
2. Assurance funds
3. Financial statements
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5. Regulations

1. Tribunal

(1) **Tribunal** - The Livestock Assurance Funds Tribunal is established as a corporation consisting of members determined in accordance with the regulations and with the capacity and, subject to this Act and the regulations, the rights, powers and privileges of a natural person.

(2) **Limits** - The Tribunal may not borrow money or guarantee a loan.

(3) **Members** - The members may not be determined in a manner that would make the Tribunal a Provincial corporation or Crown-controlled organization as those terms are defined in the *Financial Administration Act*.

(4)* **Composition** - Subject to subsection (6), the Tribunal is composed of the following members:

(a) one member appointed by the Alberta Auction Markets Association;

(b) one member appointed by the Alberta Cattle Commission;

(c) one member appointed by the Alberta Cattle Feeders Association;

(d) one member appointed by the Feeders Associations of Alberta;

(e) one member appointed by the Alberta Livestock Dealers and Order Buyers Association;

(f) one member appointed by the Western Stock Growers Association; and

(g) members appointed by associations or entities designated under subsection (5).

(5)* **Designated associations** –

(a) The Tribunal may, by a resolution passed by a majority of its members, designate an association or entity for the purposes of subsection (5)(b).

(b) An association or entity that is designated under subsection (5)(a) is authorized to appoint one member to the Tribunal.

(c) The resolution referred to in subsection (5)(a) does not come into force until it has been filed with the Minister.

(6)[*] **Revoke designation** -

(a) If a designated association refuses to appoint a member or an alternate member or if the member and alternate member of a designated association refuse to attend a meeting of the Tribunal, the members of the remaining designated associations may by unanimous resolution revoke the authority of the association or entity to appoint a member and an alternate member to the Tribunal.

(b) Subsection (11) does not apply to a resolution passed under subsection (6)(a).

(c) The Tribunal may, by a unanimous resolution of its members, reinstate the authority of an association or entity to appoint a member and an alternate member.

(d) A resolution passed under this subsection does not come into force until it has been filed with the Minister.

(7)* **Alternates** - Each designated association must appoint an alternate member who may act in place of a member representing the designated association when the member is absent or unable to act or when there is no member. The appointment of a member or an alternate member does not come into force until it has been filed with the Minister.

(8) **Chair** - The chair of the Tribunal is to be determined by the members of the Tribunal. The chair is entitled to vote on all matters that are voted on by the members of the Tribunal and, in the event of a tie, the chair has an additional vote to break the tie.

(9) **Secretary** - The Minister may appoint a person to be the secretary to the Tribunal and establish the terms and conditions of service, including remuneration and expenses, applicable to the secretary if the person is not an employee as defined in the *Public Service Act*.

(10) **Procedure** - The rules and procedures of the Tribunal are to be determined by the Tribunal.

(11) **Quorum** - The quorum for a regular business at a meeting of the members of the Tribunal is 75% of the members and for a hearing is 100% of the members.

(12) **Protection from liability** - The members of the Tribunal are not personally liable for anything done or not done in good faith under the authority or purported authority of this Act or the regulations.

(13) **Procedural fairness** - The Tribunal is bound by the rules of procedural fairness in carrying out their functions under this Act and the regulations.

(14) **Witnesses** - The Tribunal may, on its own initiative or at the request of another person, issue a notice requiring a person to attend a hearing as a witness and to produce the documents and material set out in the notice.

2. Assurance Funds

(1) **Funds** – The Tribunal shall establish:

(a) a fund called the Livestock Sellers' Assurance Fund and shall deposit all levies paid in relation the Sellers' Fund into this fund;

(b) a fund called the Licensed Livestock Dealers Sellers' Assurance Fund and shall deposit all levies paid in relation to the Sellers' Fund into this fund; and

[*] This function will not be delegated to LIS

(c) a fund called the Livestock Buyers' Assurance Fund and shall deposit all levies paid in relation to the Buyers' Fund into this fund.

(2) **Use of levies by Tribunal** - The Tribunal may use the levies it receives under this Act and any interest earned on the levies only:

(a) to make payments in accordance with this Act and the regulations to participants who make successful claims to the Tribunal;

(b) to pay refunds of levies to participants if authorized by the Act or regulations;

(c) to pay the expenses of the members of the Tribunal; or

(d) to pay the expenses of the Tribunal, including the remuneration of the Administrator and any other professional or expert hired to assist the Tribunal.

(3) **Payment from appropriate funds** - All payments by the Tribunal authorized by this Act may only be made from the fund in respect of which the claim, refund or expense is made and in no event shall a payment may be made from one fund for the purposes of another fund.

(4) **Investment** - The Tribunal may invest the levies it receives and any interest earned on the levies:

(a) subject to the regulations, in investments in which a trustee may invest trust money under the Schedule to the *Trustee Act*, or

(b) if the Tribunal is designated as a depositor of the Fund, in the Consolidated Cash Investment Trust Fund.

3. Financial statements

(1) **Definition** - In this section, "industry association" means an association or entity that is responsible for selecting one or more members of the Tribunal.

(2) **Financial statements** - The Tribunal shall, after the end of its fiscal year, prepare and submit to each industry association the Tribunal's audited financial statements for the fiscal year.

(3) **Inspection** - The Tribunal shall allow a person authorized by an industry association to inspect the books and records of the Tribunal at any reasonable time.

(4) **Participants** - The Tribunal shall provide a copy of its audited financial statements for a fiscal year to a participant who requests the copy and pays a reasonable fee established by the Tribunal.

4. Service

(1) **Service** - A document that the Minister or the Tribunal is required to serve under this Act may be served personally, or by registered mail or telecopier.

(2) **Acknowledgement** - A notice sent by telecopier is not deemed to have been served unless the person to whom the document was sent acknowledges in writing that the notice has been received.

5. Regulations

(1) **Regulation** - The Minister or Lieutenant Governor in Council may make regulations

(a) respecting...

STRAY ANIMALS ACT AND REGULATION

PROPOSED STRAY ANIMALS ACT

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1. Definitions

In this Act,

(a) **"capture"** means to take possession of by holding captive in a place appropriate on the owner's or occupier's land;

(b) **"confine"** means to restrict the movement to a limited and defined area on the owner's or occupier's land;

(c) **"Estray Fund"** means a trust fund for the expenses and proceeds associated with stray livestock;

(d) **"highway"** has the same meaning as it has in the *Traffic Safety Act*;

(e) **"impound"** means to take possession of by seizing and holding in lawful custody in a place appropriate on the owner's or occupier's land or at another location;

(f) **"inspector"** means

(i) a person appointed or designated as an inspector pursuant to section 4, or

(ii) a member of the Royal Canadian Mounted Police;

(g) **"livestock"** means

(i) any horse, head of cattle, or

(ii) any other animal specified in the regulations as livestock to which this Act and the regulations apply;

(h) **"Minister"** means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(i) **"public land"** means land of the Crown in right of Alberta;

(j) **"trespass"** means to enter without authorization on the land owned or occupied by another person or the Crown.

2. Interpretation

For the purposes of this Act,

(a) the "last person in possession of the livestock" means the last person in actual possession of the livestock, but does not include a person who captures, confines or impounds livestock pursuant to this Act, and

(b) when livestock are captured, confined or impounded pursuant to this Act, the "last person in possession of the livestock" means the person who was the last person in actual possession of the livestock before the capture, confinement or impoundment of the livestock.

3. Crown bound

The Crown in right of Alberta is bound by this Act.

4. Staff

The Minister may appoint inspectors and any other persons required for the purposes of this Act and the regulations, and may prescribe the duties and fix the remuneration and travelling and living expenses for any person appointed who is not an employee as defined in the *Public Service Act*.

PART 1 - LIABILITY FOR TRESPASSING LIVESTOCK

5. Liability for trespassing livestock

When livestock trespass and

(a) damage is done to real or personal property by the livestock or by any person in capturing the livestock, or

(b) expenses are reasonably incurred in capturing, identifying, maintaining and transporting the livestock and in ascertaining the owner or the last person in possession of the livestock,

the owner of the livestock and the last person in possession of the livestock are jointly and severally liable for the damage or expenses, or both, except as otherwise provided in section 6.

6. Exemption from liability

(1) A person is not liable under section 5 for any damage or expense that is due wholly to the fault of the person suffering the damage or expense.

(2) In determining whether liability for any damage or expense under section 5 is excluded by subsection (1), the damage or expense shall not be treated as due to the fault of the person suffering it by reason only that the person could have prevented it by fencing the person's land.

7. Liability for opening and not closing gate

(1) When a person

(a) opens and fails to close a gate, or

(b) tampers with, damages or destroys a gate or fence, or

(c) fails to monitor a gate, and

as a result of which livestock escape, the person doing or failing to do the act or thing referred to in clause (a), (b) or (c) is liable as provided in subsections (2) and (3).

(2) The person doing or failing to do the act or thing referred to in subsection (1) is liable for

(a) any damage done to real or personal property by the livestock or by any person in capturing the livestock, and

(b) any expenses reasonably incurred in capturing, maintaining and transporting the livestock and in ascertaining the last person in possession of the livestock.

(3) The person doing or failing to do the act or thing referred to in subsection (1) is liable for the damage and expense referred to in subsection (2) to

(a) the owner of the livestock, and

(b) when the last person in possession of the livestock was required to pay for any damage or expense under section 5, to that person.

(4) Nothing in this section restricts the liability under section 5 of the owner and the last person in possession of the livestock.

PART 2 - CAPTURE OF STRAY LIVESTOCK

8. Capture of trespassing livestock

(1) If livestock trespass on land, the owner or occupier of the land may, while the livestock are on the owner's or occupier's land, capture and confine them or authorize another person to capture and confine them in a place appropriate to enable an inspector to identify them.

(2) No owner, occupier or person on their behalf capturing trespassing livestock under subsection (1) shall permit or allow the captured livestock to be

(a) transported or driven along a highway, or

(b) transported or driven over any land of which the owner or occupier is not the owner or the person in possession,

unless authorized to do so by an inspector.

(3) When an owner or occupier or a person on the owner's or occupier's behalf captures livestock trespassing on the owner's or occupier's land, the owner or occupier or the person on the owner's or occupier's behalf shall, within 48 hours of the time that the livestock is confined, complete a statement of capture and expenses incurred in connection with the capture and send it to the inspector.

(4) When an owner or occupier or a person on the owner's or occupier's behalf captures livestock trespassing on the owner's or occupier's land, and the owner of the livestock has been identified, the owner or occupier or the person on the owner's or occupier's behalf shall immediately notify the owner of the livestock or person last in possession of the livestock of the capture and confinement of the livestock.

(5) When an owner or occupier or a person on the owner's or occupier's behalf captures livestock trespassing on the owner's or occupier's land, the owner of the livestock or person last in possession of the livestock shall be responsible for expenses reasonably incurred in:

(a) capturing and confining the livestock;

(b) attempting to ascertain the owner or the last person in possession of the livestock;

(c) transporting the livestock; and

(d) identifying and maintaining the livestock.

9. Licence

(1) The Minister responsible for the administration of the *Public Lands Act* may designate public land for which a licence under this section may be issued if, in the opinion of the Minister, it is necessary to protect, maintain or conserve the range, forage, soil, reforestation, wildlife habitat or other resource or for the safety of the public or of horses or as provided for in the regulations.

(2) The Minister responsible for the administration of the *Public Lands Act* may, in accordance with the regulations, issue licences that authorize the licence holder to capture horses on public land designated under subsection (1) and to confine, transport and dispose of those horses.

(3) The Minister may

(a) prescribe how many horses may be captured pursuant to the licence, and

(b) include any other terms and conditions in the licence that the Minister considers appropriate.

(4) A person who holds a licence under this Act shall comply with the terms and conditions of the licence and the person may capture, confine, transport and dispose of a horse captured on public land only in accordance with the licence and the regulations.

(5) The Minister may delegate the Minister's powers and duties under this section to an inspector or a forest officer appointed under the *Forests Act*.

(6) Notwithstanding subsection (7), a person who owns a horse or who is the agent of a person who owns a horse does not require a licence to capture, confine or transport that horse on public land.

(7) If land is designated under subsection (1), no person shall capture, confine or transport a horse on that land unless the person holds a licence that authorizes the capturing, confinement or transportation of the horse.

10. Suspension, cancellation

(1) An inspector or a forest officer appointed under the *Forests Act* may suspend or cancel a licence if the inspector or forest officer, on reasonable and probable grounds, is of the opinion that the licence holder does not comply with the terms or conditions of the licence, this Act or the regulations under this Act.

(2) A person whose licence is suspended or cancelled may appeal the suspension or cancellation to the Minister responsible for the administration of the *Public Lands Act*.

(3) The Minister may confirm, vary or revoke a suspension and may confirm or revoke a cancellation, and the Minister's decision is final.

11. Exemption

Sections 17 and 18 do not apply to horses captured on public land pursuant to a licence.

12. Powers of inspector

An inspector may at any time, if the inspector is satisfied that livestock are trespassing, capture and impound the livestock or authorize a person to capture and impound them.

13. Destruction of dangerous livestock

An inspector who is satisfied that

(a) livestock are trespassing on land,

(b) attempted capture of the livestock will likely result in injury to some person, and

(c) after reasonable inquiry the owner or the last person in possession of the livestock is unknown, or the owner or last person in possession of the livestock is unwilling or unable to remove the livestock,

may destroy and arrange for the disposal of the livestock or authorize another person to destroy and arrange for the disposal of the livestock.

14. Impoundment

(1) An inspector may impound livestock captured or confined pursuant to this Act by issuing a notice of impoundment containing at least the following:

(a) a description of the livestock,

(b) the date of impoundment,

(c) a description of the place where the livestock was captured,

(d) a statement that the livestock is impounded, and

(e) the signature of the inspector impounding the livestock.

(2) On the issue of a notice of impoundment, the livestock described in the notice becomes subject to the control of the inspector and shall not be transported or disposed of except

(a) in accordance with this Act,

(b) in accordance with other applicable legislation and requirements, and

(c) with the consent of an inspector.

(3) No person shall transport, move or dispose of livestock impounded pursuant to this Act without the prior consent of an inspector.

15. Entry on land

An inspector may enter on any land or premises without the consent of the owner or occupier of it for the purpose of capturing trespassing livestock and removing it from the land or premises.

16. Confinement of livestock

When an inspector receives a statement of capture of livestock pursuant to section 8(3), the inspector shall impound the livestock and

(a) leave the livestock with the person who has the livestock confined, or

(b) transport or arrange for the transport of the livestock to a livestock market, a stockyard or other place that, in the opinion of the inspector, is a suitable place to keep the livestock.

17. Duties of inspector

When an inspector impounds livestock, the inspector shall

(a) if the inspector knows or is able to determine the owner or the last person in possession of the livestock,

(i) notify one or both of them of the impoundment of the livestock, and

(ii) by notice in writing warn the owner or the last person in possession of the livestock, or both, that, unless the expenses referred to in section 5(b) are paid to the inspector within 14 days after the date of the notice, the livestock will be sold by public auction without further reference to either of them, or

(b) if the inspector does not know and after reasonable inquiry is unable to determine who is the owner or the last person in possession of the livestock, sell the livestock by public auction.

18. Release of impounded livestock

(1) If, before livestock impounded pursuant to this Act is sold by public auction, the owner or the last person in possession of the livestock claims it and pays the expenses referred to in section 5(b), the inspector shall release or authorize the person confining the livestock to release the livestock to the owner or the last person in possession of the livestock.

(2) When livestock is impounded pursuant to this Act and

(a) the owner or the last person in possession of the livestock refuses to pay the expenses referred to in section 5(b), or

(b) no person claims the livestock,

the inspector shall, on expiry of the notice referred to in section 17(a) or after the reasonable inquiry referred to in section 17(b), sell the livestock by public auction.

19. Disposition of proceeds of sale of livestock

(1) When livestock are sold by public auction pursuant to this Act, the proceeds of sale shall be disbursed in accordance with this section.

(2) If the owner or the last person in possession of the livestock is not known, the proceeds of a sale of livestock shall be disbursed in the following order of priority, on proof of the expenses having been incurred in:

(a) selling the livestock;

(b) transporting the livestock;

(c) identifying and maintaining the livestock;

(d) capturing and confining the livestock; and

(e) attempting to ascertain the owner or the last person in possession of the livestock.

(3) The Minister shall pay out of the proceeds of a sale of the livestock referred to in subsection (1), to any person or organization substantiating a claim referred to in subsection (2), that is deemed reasonable in the opinion of the Minister and to the extent that money is available from the proceeds of the sale of the livestock.

(4) Any balance of the proceeds of a sale remaining after compliance with subsection (3) shall be paid into the Estray Fund.

(5) The Minister shall pay out of a balance referred to in subsection (4), to any person or organization substantiating a claim of damage to real or personal property caused by the livestock that is deemed reasonable in the opinion of the Minister and to the extent that money is available in that balance.

(6) The Minister may pay out of the balance, if any, of the proceeds of a sale of livestock after compliance with subsection (5) to a person who

(a) claims, within one year from the date of the sale of livestock, and

(b) establishes to the satisfaction of the Minister

that the person was the owner of the livestock prior to the sale.

(7) When livestock are sold by public auction pursuant to this Act and a dispute exists or arises between the former owner or the last person in possession of the livestock and a person claiming to have suffered damage to real or personal property as a result of the trespass of the livestock, the proceeds of a sale of the livestock shall be paid in accordance with subsections (2) and (4) until

(a) the parties to the dispute agree in writing to the disposition of the balance of the proceeds, in which case the Minister shall pay the balance of the proceeds of the sale of that livestock in accordance with the agreement, or

(b) a court awards damages and directs payment of the balance of the proceeds to one or both of the parties to the dispute, in which case the Minister shall pay an amount in accordance with the direction of the court and pay any balance of the proceeds of the sale of that livestock to the former owner of that livestock.

20. Insufficient proceeds

Where livestock is sold by public auction pursuant to this Act and the proceeds of the sale are insufficient to pay the expenses referred to in section 19(2), the Minister may pay the expenses out of the Estray Fund, but the aggregate amount of the expenses paid shall not be greater than

(a) the aggregate of the amounts referred to in section 19(4) paid into the Estray Fund,

less

(b) the aggregate of the amounts, if any, of potential claims to be paid out of the Estray Fund under section 19(6).

21. Dispute over expenses

When a dispute arises as to the reasonableness of any claim for expenses, the Minister will determine what expenses are reasonable in the circumstances and the Minister's decision is final.

22. Sale of unclaimed nursing calves

(1) In this section,

(a) "community pasture" means land of the Crown in right of Alberta that is

(i) established and operated as a community grazing reserve, or

(ii) held under a grazing lease by a grazing association,

under the *Public Lands Act*;

(b) "grazing association" means a grazing association incorporated under the *Societies Act* or the *Co-operative Associations Act* or incorporated, continued or registered under the *Cooperatives Act*.

(2) Notwithstanding any other provision of this Act, if a nursing calf is found on a community pasture during roundup and an inspector is satisfied that the owner of the calf cannot readily be determined, the inspector may, as soon as possible, sell the calf by public auction.

(3) The net proceeds of the sale under subsection (2) after deducting the expenses of maintaining, transporting and selling the calf shall be paid to the grazing association or other association that utilizes the community pasture on which the calf was found.

PART 3 - PROTECTION OF LIVESTOCK AND DOMESTIC FOWL FROM DOGS

23. Definition

In this Part, "domestic fowl" means any domestic variety of fowl.

24. Right to kill dog

The owner or the person in actual possession of livestock or domestic fowl or any person authorized by either of them may kill a dog in the act of pursuing, worrying or destroying that livestock or domestic fowl on land owned or occupied by the owner or person in actual possession of that livestock or domestic fowl.

25. Order to kill dog

(1) When a person believes that any other person owns or has in that other person's possession a dog that within one month before the date of an application under this section has worried, injured or destroyed livestock or domestic fowl outside land owned or occupied by the owner or person in possession of the dog, the person who so believes may apply to the Provincial Court for an order that the dog be killed.

(2) When the Provincial Court finds that a dog has, within one month before the date of the application under subsection (1), worried, injured or destroyed livestock or domestic fowl outside the land occupied by the owner or person in possession of the dog, the Provincial Court may

(a) order the dog to be killed, or

(b) make any other order the Court considers appropriate in the circumstances.

PART 4 - GENERAL MATTERS

26. Self-government

(1) The Minister may make regulations

(a) respecting the establishment of delegated authorities;

(b) delegating to one or more delegated authorities any of the powers, duties or functions of the Minister or of an inspector or assessor under this Act or the regulations, except

(i) the Minister's power to make regulations under this section or section 35, and

(ii) the Minister's powers, duties and functions under section 9;

(c) imposing conditions on the delegated powers, duties or functions;

(d) limiting the liability of a delegated authority and its employees, agents, directors or officers in an action for negligence with respect to the delegated power, duty or function when the delegated authority and its employees, agents, directors or officers act in good faith pursuant to the delegation, including but not limited to providing that any limitation of liability applicable to an inspector or assessor may be made applicable to a delegated authority and its employees, agents, directors or officers when they carry out the inspector's or assessor's power, duty or function;

(e) respecting an appeal from an action or a decision of a delegated authority or its employees, agents, directors or officers;

(f) authorizing a delegated authority to collect money by the levy of fees and charges with respect to the delegated power, duty or function on persons or classes of persons specified in the regulations, respecting how the fees and charges are to be imposed, collected and accounted for and authorizing the delegated authority to use the money for any purpose related to the operation of the delegated authority in the carrying out of a delegated power, duty or function;

(g) respecting the payment of a fee to a delegated authority for the carrying out of a delegated power, duty or function;

(h) notwithstanding section 20, authorizing the delegated authority to collect the proceeds from a public auction and respecting the manner in which those proceeds are to be dealt with by the delegated authority;

(i) authorizing a delegated authority to collect, on behalf of the Crown, any money lawfully due to the Crown under this Act and respecting how the money is to be collected and accounted for and remitted to the Minister;

(j) respecting records that a delegated authority is required to maintain;

(k) respecting the annual report under section 32;

(l) respecting the confidentiality of information obtained by the delegated authority and its employees, agents, directors or officers while carrying out a delegated power, duty or function;

(m) respecting the inspection of premises where a delegated authority or its employee, agent, director or officer is carrying out a delegated power, duty or function and authorizing the Minister to make copies of any document or other record related to the delegated power, duty or function;

(n) respecting the carrying out of an audit of the delegated authority with respect to its delegated powers, duties and functions and authorizing the Minister to charge reasonable costs incurred in carrying out the audit.

(2) When a delegation is made under subsection (1),

(a) a reference in this Act or the regulations to the Minister or to an inspector with respect to delegated powers, duties or functions is to be read as if it were a reference to the delegated authority, and

(b) a person who is affected by an action taken or a decision made by a delegated authority pursuant to the delegation may appeal the action or decision in accordance with the regulations under subsection (1).

(3) Notwithstanding the *Financial Administration Act*, any money collected by a delegated authority pursuant to subsection (1)(f) or (g) or section 31 belongs to the delegated authority.

(4) If the regulations establish a maximum amount of a fee that a delegated authority may charge for providing a service, the delegated authority may not charge or collect a fee that is greater than that maximum amount.

27. Rules

(1) A delegated authority may make rules

(a) respecting the carrying out of a delegated power, duty or function;

(b) delegating to the employees or agents of the delegated authority and, in the case of a corporation, to its employees, agents, directors or officers, the carrying out of a delegated power, duty or function, except the power to make rules under this subsection.

(2) A rule made under subsection (1) is not in force until it is approved by the Minister.

(3) The *Regulations Act* does not apply to a rule made under this section.

28. Not Crown agent

With respect to a delegation, a delegated authority and its employees, agents, directors or officers are not agents of the Crown.

29. Financial Administration Act not applicable

The *Financial Administration Act* does not apply to a delegated authority with respect to a delegated power, duty or function.

30. Business Corporations Act, s122(4)

Section 122(4) of the *Business Corporations Act* does not apply to a corporation that is a delegated authority in respect of the carrying out of a power, duty or function under this Act.

31. Collections

A fee or charge levied pursuant to the regulations under section 26(1)(f) is recoverable by the delegated authority as a debt due to the delegated authority.

32. Reports

(1) A delegated authority shall, after the end of its fiscal year, prepare and submit to the Minister an annual report with respect to its powers, duties and functions under this Act.

(2) The annual report must include a general summary of the delegated authority's policies and activities in that year, any rules made under section 27 in that year and a financial report that includes an audited financial statement.

(3) The Minister shall lay a copy of the annual report before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next sitting.

(4) A delegated authority shall on the written request of the Minister provide the Minister with other reports as specified by the Minister in the request.

33. Forms

A delegated authority may establish and use forms other than those prescribed by regulation.

34. Regulations

The Lieutenant Governor in Council may make regulations

(a) governing the application by persons for payment of expenses referred to in section 20;

(b) governing the method and manner in which livestock is to be captured, confined, transported and sold under this Act;

(c) authorizing the Minister to prescribe forms for the purposes of this Act and the regulations;

(d) prescribing any animal as livestock;

(e) respecting applications for licences and the issuing of licences;

(f) respecting fees for licences;

(g) respecting the manner in which horses may be captured pursuant to a licence and the manner in which those horses may be confined, transported and disposed of;

(h) governing any activity to be followed in a geographic area for controlling, destroying or preventing the establishment of any species of wildlife for the purpose of protecting persons, livestock, crops or other property.

35. Tariff

The Minister may make regulations prescribing a tariff of expenses that may be charged by a person for the capture, maintenance, transportation and confinement of livestock under this Act.

36. Livestock straying on highway

(1) No person shall permit or allow any livestock owned by the person or in the person's possession to trespass on land owned by another person.

(2) No person shall permit or allow any livestock owned by the person or in the person's possession to be on a highway unless it is in the person's or another person's direct and continuous charge and the person or that other person is competent to control the livestock.

(3) Subsection (2) does not apply to a highway, other than a primary highway,

(a) within the boundaries of land in an Indian reserve, or

(b) within the boundaries of land

(i) held under a grazing lease or a grazing permit under the *Public Lands Act*,

(ii) established and operated as a community grazing reserve under the *Public Lands Act*, or

(iii) designated for grazing use under the *Forest Reserves Act*.

(4) A person who contravenes this section is guilty of an offence and liable to a fine of not more than $2000.

37. Civil liability unaffected

Nothing in section 36 imposes any civil liability for damages on the owner or person in control of livestock that is on a highway contrary to that section and any question of liability for damages arising in a civil action shall be determined as if that section had not been enacted.

38. Offence and penalty

A person who

(a) opens and fails to close a gate, or

(b) tampers with, damages or destroys a gate or fence, or

(c) fails to monitor a gate, and

as a result of which livestock escape, is guilty of an offence and liable to a fine of not more than $5000.

39. Offence

A person who contravenes section 9(7) or a regulation under section 34(g) is guilty of an offence and liable to a fine of not more than $5000.

40. General penalty

A person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than $2000.

PROPOSED STRAY ANIMALS REGULATION

Table of Contents:

1. Definitions
2. Livestock
3. Expenses that may be charged
4. Insufficient funds
5. Forms
6. Repeal
7. Expiry

1. Definition

In this Regulation, "Act" means the *Stray Animals Act*.

2. Livestock

In addition to the animals set out in section 1(d) of the Act, the following animals are specified as livestock to which the Act and this Regulation apply:

(a) sheep,

(b) swine,

(c) goat,

(d) mule,

(e) ass,

(f) plains bison,

(g) alpaca, and

(i) llama.

3. Expenses that may be charged

If work is done or a service is provided under the Act and the expenses for carrying out the work or service have been approved by an inspector, the person doing the work or providing the service may charge the following expenses to the owner or the last person in possession of the livestock in respect of which the work or service is carried out:

(a) for providing care and feed for livestock captured or confined, in accordance with the actual and reasonable cost of care and feed;

(b) for transporting livestock from the point of departure to the point of delivery and return to the point of departure, in accordance with the actual and reasonable cost of transporting the livestock;

(c) for the use and transporting of a horse to carry out the work or service, in accordance with the actual and reasonable cost of carrying out this service;

(d) where the person uses special equipment to carry out the work or service,

(i) the actual rental cost of the special equipment, supported by receipts, or

(ii) an amount equivalent to the cost referred to in subclause (i), where the person owns the special equipment;

(e) for hiring a person to carry out the work or service, in accordance with the actual and reasonable hourly labour rates for performing this type of work or cost of carrying out this service; and

(f) for any other expense not defined that pertains to the capture, impoundment, seizure, care, identification, transportation, sale, or any other activity reasonably associated with the stray livestock.

4. Insufficient funds

A person who carries out work or provides a service may apply to the Minister on the prescribed form for the payment of expenses under section 3 if the proceeds of sale of the livestock in respect of which the work or service was carried out are insufficient to pay the expenses.

5. Forms

The Minister may prescribe the forms required by the Act and this Regulation.

6. Repeal

The Stray Animals Regulation (Alta. Reg. 340/84) is repealed.

7. Expiry

For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be re-passed in its present or an amended form following a review, this Regulation expires on [date to be determined].

PROPOSED ANIMAL KEEPERS ACT

Table of Contents

1. Definitions
2. Lien on animals and effects
3. Care of detained animals and effects
4. Notice of sale
5. Application of proceeds of sale
6. Disposition of surplus
7. Partial sale
8. Dispute resolution

1. Definitions

In this Act,

(a) "animal keeper" or "keeper" means a person who receives payment for stabling, boarding, feeding or caring for any animal;

(b) "gear" means tack and equipment used for riding, driving, showing or care of animals and stock trailers, horse trailers, sleighs, buggies and carriages;

(c) "indebtedness" means the value of stabling, boarding, feeding, and caring for any animal.

2. Lien on animals and effects

(1) An animal keeper has a lien on the animals for the indebtedness related to the animals and, in addition to all other remedies provided by law, may detain in the animal keeper's custody and possession, the animal and any gear appertaining to it and may sell the animal or gear in accordance with section 4.

(2) The right of detention and sale by an animal keeper of the animal or gear has priority over and is not subject to any existing lien, security interest as defined in the *Personal Property Security Act*, agreement of sale or other charge or encumbrance of whatever nature or kind affecting that animal or gear.

(3) An animal keeper may, at any time, waive his rights under this Act in whole or in part and such waiver is not effective unless in writing signed by the animal keeper.

3. Care of detained animals and effects

When an animal keeper exercises the right provided by this Act to detain animals or gear,

(a) the keeper shall keep them in the keeper's possession, and

(b) the keeper is responsible for their proper care, during the time the keeper detains them.

4. Notice of sale

(1) If the owner is known and does not reclaim the animals or gear by discharging the indebtedness within two weeks of the time it was incurred, the animal keeper may sell by public auction, all or some of the animals or gear on giving two weeks notice of sale,

(a) in the case of livestock as defined under the *Livestock Identification and Commerce Act*, by providing notice to the Minister responsible for that Act or the Minister's delegated authority, and

(b) to the owner of the animals.

(2) If the owner is unknown and does not reclaim the animals or gear by discharging the indebtedness within two weeks of the time it was incurred, the animal keeper may sell by public auction, all or some of the animals or gear on giving two weeks notice of sale,

(a) by advertisement in the newspaper published nearest to the keeper's stable or if more than one newspaper is published in the same locality, then in either of them, and

(b) in the case of livestock as defined under the *Livestock Identification and Commerce Act*, by providing notice to the Minister responsible for that Act or the Minister's delegated authority.

(3) For the purposes of (1) and (2), the indebtedness is incurred,

(a) on the date the stabling, boarding, feeding, or caring for the animal commenced, or

(b) if there is an agreement to pay in accordance with an invoice, on the date the invoice payment is due, whichever is later.

(4) The notice of sale shall state:

(a) the date, and time of the sale and the location and name of the sale facility;

(b) if known, the names of the owner or the person or persons who brought the animals to the stable;

(c) the amount for which a lien is claimed;

(d) a description of the animals or gear; and

(e) the name of the seller.

(5) Any person required to serve notice under this Act may serve the notice in writing by delivery in person, registered mail or facsimile to the last address or facsimile number provided.

5. Application of proceeds of sale

The operator of the public auction shall pay the proceeds derived from the sale

(a) to the keeper for paying the expenses incurred by the detention, transport, advertising and sale;

(b) to the keeper for satisfying the lien of the keeper; and

(c) in paying the surplus, if any, to the person entitled to it if that person applies for the surplus forthwith.

6. Disposition of surplus

(1) If no person entitled to the surplus applies for it forthwith or if more than one person applies, the person operating the public auction shall pay the surplus:

(a) to the Minister of Finance;

(b) if the surplus relates to livestock as defined in the *Livestock Identification and Commerce Act*, to the Minister responsible for that Act; or

(c) to the court pursuant to an application under Section 8

for disposition of the surplus in accordance with this Act.

(2) The Minister of Finance shall keep the surplus in a special trust account for one year, after which time if no person has made an application for it, the surplus it is to be paid over to and belongs to the General Revenue Fund.

(3) The Minister responsible for *Livestock Identification and Commerce Act* shall keep the surplus in a special trust account for one year, after which time if no person has made an application for it, the surplus is to be paid over to and belongs to the Livestock Patrons' Assurance Fund and Buyers' Fund in equal shares.

(4) Within one year, the applicable Minister may:

(a) pay the surplus or part of it to the owner or any other person who is entitled to it upon an application by such person supported by such evidence as the Minister may require; or

(b) pay the surplus to the court pursuant to an application under Section 8.

(5) The Minister responsible for the *Livestock Identification and Commerce Act* may delegate the powers, duties and functions under this section to the Minister's delegate under that Act.

7. Partial sale

When an animal keeper has a lien on more than one animal belonging to an owner, the keeper may elect to limit the lien to some of the animals of that owner and may sell those animals in accordance with this Act and apply the proceeds of the sale of those animals to the indebtedness for all the owner's animals.

8. Dispute resolution

(1) Any person may apply to a court for a determination of the rights of the parties where any question arises with respect to:

(a) the amount of the lien or the right of any person to a lien;

(b) the sale under section 4;

(c) the disposition of the proceeds under section 5;

(d) the disposition of the surplus under section 6, and

(e) any other matter arising out of the application of this Act,

and the court may make such order as it considers necessary to give effect to those rights.

(2) When an application has been made under (1), the proceeds of the sale may be paid into court and the lien is discharged against the animal and gear and becomes instead a charge upon the amount paid into court with the same priority as if the lien continued.

(3) Notwithstanding anything else in this Act, persons shall be entitled to the surplus according to their rights and priorities established under the *Personal Property Security Act* and other applicable legislation.

Note: Feedback relating to the proposed Animal Keepers Act can be directed to Rick Frederickson, Livestock Development Division, AAFRD:

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